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January 24, 2005

Honorable Pat Miller, Chairman
Tennessee Regulatory Authority
ATTN: Sharla Dillon, Dockets
460 James Robertson Parkway
Nashville, TN 37243-5015

Via Hand Delivery

RE: Joint Petition for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended; Tennessee Regulatory Authority Docket No. 04-00046

Dear Ms. Dillon

Enclosed for filing in the above-referenced docket are the original and 13 copies of each of the following:

- 1) revised matrix;
- 2) revised Exhibit A, and
- 3) Errata.

Thank you for your assistance in this matter.

Sincerely,



H. LaDon Baltimore

LDB/dcg
Enclosures
cc. Guy Hicks, Esq.

KMC / NEWSOUTH / NUVOX / XSPEDIUS - BELL SOUTH ARBITRATION

REVISED ISSUES MATRIX¹

Tennessee Regulatory Authority Docket No. 04-00046

ITEM NO.	ISSUE #	§	UNRESOLVED ISSUE	CLEC POSITION GT&Cs (MAIN)	BELL SOUTH POSITION
1	G-1	1.6	<i>This issue has been resolved.</i>		
2	G-2	1.7	<i>How should "End User" be defined?</i>	The term "End User" should be defined as "the customer of a Party".	The Parties have not discussed the definition for "End User" other than in the context of high-capacity EELs. Since the issue as stated by the CLECs and raised in the General Terms and Conditions of the Agreement has never been discussed by the Parties, the issue is not appropriate for arbitration. The term End User should be defined as it is customarily used in the industry; that is, the ultimate user of the telecommunications service.
3	G-3	10.2	<i>This issue has been resolved.</i>		
4	G-4	10.4.1	<i>What should be the limitation on each Party's liability in circumstances other than gross negligence or willful</i>	In cases other than gross negligence and willful misconduct by the other party, or other specified exemptions as set forth in CLECs' proposed language, liability should be limited to an aggregate amount over the	The industry standard limitation of liability should apply, which limits the liability of the provisioning party to a credit for the actual cost of the services or functions not performed or

¹ With the exception of Issue 63/3-4, which KMC is not arbitrating on account of having reached a settlement with BellSouth on the issue, KMC, NewSouth, NuVox and Xspedius are jointly arbitrating all issues raised in this arbitration proceeding

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			misconduct?	entire term equal to 7.5% of the aggregate fees, charges or other amounts paid or payable for any and all services provided or to be provided pursuant to the Agreement as of the day on which the claim arose.	improperly performed.
5	G-5	10.4.2	<p>(A) To the extent that a Party does not or is unable to include specific limitation of liability terms in all of its tariffs and End User contracts (past, present and future), should it be obligated to indemnify the other Party for liabilities not limited?</p> <p>(B) If the CLEC does not have in its contracts with end users and/or tariffs standard industry limitations of liability, who should bear the resulting risks?</p>	<p>(A) NO, Petitioners cannot limit BellSouth's liability in contractual arrangements wherein BellSouth is not a party. Moreover, Petitioners will not indemnify BellSouth in any suit based on BellSouth's failure to perform its obligations under this contract or to abide by applicable law. Finally, BellSouth should not be able to dictate the terms of service between Petitioners and their customers by, among other things, holding Petitioners liable for failing to mirror BellSouth's limitation of liability and indemnification provisions in CLEC's End User tariffs and/or contracts. To the extent that a CLEC does not, or is unable to, include specific elimination-of-liability terms in all of its tariffs and End User contracts (past, present and future), and provided that the non-inclusion of such terms is commercially reasonable in the particular circumstances, that CLEC should not be required to indemnify and reimburse BellSouth for that portion of the loss that would have been limited (as to the CLEC but not as to non-contracting parties such as BellSouth) had the CLEC included in its</p>	<p>If a CLEC elects not to limit its liability to its end users/customers in accordance with industry norms, the CLEC should bear the risk of loss arising from that business decision.</p>

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				<p>tariffs and contracts the elimination-of-liability terms that BellSouth was successful in including in its tariffs at the time of such loss</p> <p>(B) "Standard industry limitations of liability" is an undefined term. Moreover, what is standard for BellSouth may not be the standard for CLECs – or it might not be commercially reasonable for CLECs to insist on the same or similar terms. CLECs bear risks associated with provisions of their tariffs and customer service agreements, to the extent such provisions do not limit CLEC liability. However, BellSouth bears the risks associated with its own negligence, gross negligence, willful misconduct, breach of the Agreement or failure to abide by applicable law. CLECs have no obligation to insulate, indemnify or insure BellSouth against suits that may arise as a result of BellSouth's negligence, gross negligence, willful misconduct, breach of the Agreement or failure to abide by applicable law, even if such suits are brought by CLEC customers. Accordingly, CLECs do not limit BellSouth's liability in their own tariffs and customer service agreements. Similarly, CLECs do not agree to attempt to limit third party customer rights in the Agreement.</p>	

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6	G-6	10.4.4	<p>(A) Should the Agreement expressly state that liability for claims or suits for damages incurred by CLEC's (or BellSouth's) customers/End Users resulting directly and in a reasonably foreseeable manner from BellSouth's (or CLEC's) performance of obligations set forth in the Agreement are not indirect, incidental or consequential damages?</p> <p>(B) How should indirect, incidental or consequential damages be defined for purposes of the Agreement?</p>	<p>(A) YES, such an express statement is needed because the limitation of liability terms in the Agreement should in no way be read so as to preclude damages that CLECs' customers incur as a foreseeable result of BellSouth's performance of its obligations under the Agreement, including its provisioning of UNEs and other services. Damages to customers that result directly, proximately, and in a reasonably foreseeable manner from BellSouth's (or a CLEC's) performance of obligations set forth in the Agreement that were not otherwise caused by, or are the result of, a CLEC's (or BellSouth's) failure to act at all relevant times in a commercially reasonable manner in compliance with such Party's duties of mitigation with respect to such damage should be considered direct and compensable under the Agreement.</p> <p>(B) In any contract, including the Agreement, each Party should be liable for damages that are the direct and foreseeable result of its actions. Where the injured person is a customer of one Party, providing relief is no less proper where, as in the case of the Agreement, a contract expressly contemplates that services provided are being directed to such customers. Such liability is an appropriate risk to be borne by any service provider in a contract such as</p>	<p>What damages constitute indirect, incidental or consequential damages is a matter of state law at the time of the claim and should not be dictated by a party to an agreement.</p>

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				<p>the Agreement that clearly envisions that the effect of performance or nonperformance of such services will be passed through to ascertainable third parties related to the other Party to the contract. In this Agreement, being a contract for wholesale services, liability to injured end users/customers must be contemplated and covered by express language, subject, in any event, to the foreseeability and legal and proximate cause limitation as Petitioners have proposed for express inclusion in the Agreement.</p> <p>For purposes of the Agreement, it should be clear that damages incurred by CLEC's (or BellSouth's) end users/customers, to the extent such damages result directly and in a reasonably foreseeable manner from BellSouth's (or CLEC's) performance obligations set forth in the Agreement, are not included in the definition of indirect, incidental or consequential damages.</p>	
7	G-7	10.5	<i>What should the indemnification obligations of the parties be under this Agreement?</i>	<p>The Party providing service under the Agreement should be indemnified, defended and held harmless by the Party receiving services against any claim for libel, slander or invasion of privacy arising from the content of the receiving Party's own communications. Additionally, customary provisions should be included to specify that the Party receiving services under the</p>	<p>The Party providing services should be indemnified, defended and held harmless by the Party receiving services against any claim, loss or damage arising from the receiving Party's use of the services provided under this Agreement pertaining to (1) claims for libel, slander or invasion of privacy arising from the content of the receiving</p>

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				Agreement should be indemnified, defended and held harmless by the provider Party against any claims, loss or damage to the extent reasonably arising from: (1) the providing Party's failure to abide by Applicable Law, or (2) injuries or damages arising out of or in connection with this Agreement to the extent caused by the provider Party's negligence, gross negligence or willful misconduct.	Party's own communications, or (2) any claim, loss or damage claimed by the End User of the Party receiving services arising from such company's use or reliance on the providing Party's services, actions, duties, or obligations arising out of this Agreement. This indemnification obligation shall not apply the extent any claims, loss, or damage is caused by the providing Party's gross negligence or willful misconduct.
8	G-8	11.1	<i>What language should be included in the Agreement regarding a Party's use of the other Party's name, service marks, logos and trademarks?</i>	Given the complexity of and variability in intellectual property law, this nine-state Agreement should simply state that no patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by the Agreement and that a Party's use of the other Party's name, service mark and trademark should be in accordance with Applicable Law. The Authority should not attempt to prejudge intellectual property law issues, which at BellSouth's insistence, the Parties have agreed are best left to adjudication by courts of law (see, GTC, Sec. 11.5).	BellSouth's position is that the CLECs' use of BellSouth's name should be limited to (1) factual references that are necessary to respond to direct inquiries from customers or potential customers regarding the source of the underlying services or the identity of repair technicians; and (2) truthful and factual comparative advertising that does not imply any agency relationship, partnership, endorsement, sponsorship or affiliation with BellSouth and that uses the name solely in plain-type, non-logo format. CLECs should not otherwise be entitled to use BellSouth's name, service mark, logo or trademark.
9	G-9	13.1	<i>Should a court of law be included in the venues available for initial dispute</i>	YES, either Party should be able to petition the Authority, the FCC or a court of law for resolution of a dispute. No legitimate	This Authority or the FCC should initially resolve disputes as to the interpretation of the Agreement or as to

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			<i>resolution for disputes relating to the interpretation or implementation of the Interconnection Agreement?</i>	dispute resolution venue should be foreclosed to the Parties. The industry has experienced difficulties in achieving efficient regional dispute resolution. Moreover, there is an ongoing debate as to whether state commissions have jurisdiction to enforce agreements (CLECs do not dispute that authority) and as to whether the FCC will engage in such enforcement. There is no question that courts of law have jurisdiction to entertain such disputes (see GTC, Sec. 11.5); indeed, in certain instances, they may be better equipped to adjudicate a dispute and may provide a more efficient alternative to litigating before up to 9 different state commissions or to waiting for the FCC to decide whether it will or won't accept an enforcement role given the particular facts.	the proper implementation of the Agreement. A party should be entitled to seek judicial review of any ruling made by the Authority or the FCC concerning this Agreement, but should not be entitled to take such disputes to a Court of law without first exhausting its administrative remedies.
10	G-10	17.4	<i>This issue has been resolved.</i>		
11	G-11	19, 19.1	<i>This issue has been resolved.</i>		
12	G-12	32.2	<i>Should the Agreement explicitly state that all existing state and federal laws, rules, regulations, and decisions apply unless otherwise specifically agreed to by the Parties?</i>	YES, nothing in the Agreement should be construed to limit a Party's rights or exempt a Party from obligations under Applicable Law, as defined in the Agreement, except in such cases where the Parties have explicitly agreed to a limitation or exemption. Moreover, silence with respect to any issue, no matter how discrete, should not	This Agreement is intended to memorialize the Parties' mutual agreement with respect to their obligations under the Act and applicable FCC and Commission rules and orders. To the extent that either Party asserts that an obligation, right or other requirement not expressly memorialized

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				<p>construed to be such a limitation or exception. This is a basic legal tenet and is consistent with both federal and Georgia law (agreed to by the Parties), and it should be explicitly stated in the Agreement in order to avoid unnecessary disputes and litigation that has plagued the Parties in the past</p>	<p>in the Agreement is applicable to the Parties' by virtue of a reference to an FCC or Commission rule or order or Applicable Law in the Agreement, and such obligation, right or other requirement is disputed by the other Party, the Party asserting that such obligation, right or other requirement is applicable shall petition the Commission for resolution of the dispute and the Parties agree that any finding by the Commission that such obligation, right or other requirement exists shall be applied prospectively by the Parties upon amendment of the Agreement to include such obligation, right or other requirement and any necessary rates, terms and conditions. The Party that failed to perform such obligation, right or other requirement shall be held harmless from any liability for such failure until the obligation, right or other requirement is expressly included in this Agreement by amendment hereto.</p>
13	G-13	32.3	<i>This issue has been resolved.</i>		
14	G-14	34.2	<i>This issue has been resolved.</i>		
15	G-15	45.2	<i>This issue has been resolved.</i>		
16	G-16	45.3	<i>This issue has been</i>		

ITEM NO.	ISSUE #	\$	UNRESOLVED ISSUE	CLEC POSITION	BELLSOUTH POSITION
			<i>resolved.</i>		
RESALE (ATTACHMENT 1)					
17	1-1	3.19	<i>This issue has been resolved</i>		
18	1-2	11.6.6	<i>This issue has been resolved.</i>		
NETWORK ELEMENTS (ATTACHMENT 2)					
19	2-1	1.1	<i>This issue has been resolved.</i>		
20	2-2	1.2	<i>This issue has been resolved.</i>		
21	2-3	1.4.2	<i>This issue has been resolved.</i>		
22	2-4	1.4.3	<i>This issue has been resolved.</i>		
23	2-5	1.5	<i>What rates, terms, and conditions should govern the CLECs' transition of existing network elements that BellSouth is no longer obligated to provide as UNEs to other services?</i>	In the event section 251 UNEs or Combinations are no longer offered pursuant to, or are not in compliance with, the terms set forth in the Agreement, including any transition plan set forth therein, it should be BellSouth's obligation to identify the specific service arrangements that it insists be transitioned to other service arrangements pursuant to Attachment 2. Joint Petitioners would bear the appreciable burden of verifying that list, selecting alternative service arrangements (or disconnection), notifying BellSouth of any disputes, and submitting spreadsheets, LSRs or ASRs, as appropriate. There should be no	At the conclusion of the Transition Period, in the absence of an effective FCC ruling that Mass Market Switching, DSL, or equivalent, and higher capacity loops, including dark fiber loops (collectively "Enterprise Market Loops"), and DSL, or equivalent, and higher capacity dedicated transport, including dark fiber transport (collectively "High Capacity Transport"), or any subset thereof (individually or collectively referred to herein as the "Eliminated Elements") are subject to unbundling, the CLEC must transition Eliminated Elements to either Resale,

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				<p>service order, labor, disconnection or other nonrecurring charges associated with the transition of section 251 UNEs to other service arrangements.</p>	<p>tariffed services, or services offered pursuant to a separate agreement negotiated between the Parties (collectively "Comparable Services") or must disconnect such Eliminated Elements, as set forth below</p> <p><u>Eliminated Elements including Mass Market Switching Function ("Switching Eliminated Elements")</u> In the event that the CLEC has not entered into a separate agreement for the provision of Mass Market Switching or services that include Mass Market Switching, the CLEC will submit orders to either disconnect Switching Eliminated Elements or convert such Switching Eliminated Elements to Resale within thirty (30) days of the last day of the Transition Period. If the CLEC submits orders to transition such Switching Eliminated Elements to Resale within thirty (30) days of the last day of the Transition Period, applicable recurring and nonrecurring charges shall apply as set forth in the appropriate BellSouth tariff, subject to the appropriate discounts described in the resale attachment of the Agreement. If the CLEC fails to submit orders within thirty (30) days of the last day of the Transition Period, BellSouth shall</p>

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					<p>transition such Switching Eliminated Elements to Resale, and the CLEC shall pay the applicable nonrecurring and recurring charges as set forth in the appropriate BellSouth tariff, subject to the appropriate discounts described in the resale attachment of this Agreement. In such case, the CLEC shall reimburse BellSouth for labor incurred in identifying the lines that must be converted and processing such conversions. If no equivalent Resale service exists, then BellSouth may disconnect such Switching Eliminated Elements if the CLEC does not submit such orders within thirty (30) days of the last day of the Transition Period. In all cases, until Switching Eliminated Elements have been converted to Comparable Services or disconnected, the applicable recurring and nonrecurring rates for Switching Eliminated Elements during the Transition Period shall apply as set forth in the Agreement. Applicable nonrecurring disconnect charges may apply for disconnection of service or conversion to Comparable Services.</p> <p><u>Other Eliminated Elements.</u> Upon the end of the Transition Period, the CLEC must transition the Eliminated Elements</p>

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					<p>other than Switching Eliminated Elements ("Other Eliminated Elements") to Comparable Services. Unless the Parties agree otherwise, Other Eliminated Elements shall be handled as follows.</p> <p>the CLEC will identify and submit orders to either disconnect Other Eliminated Elements or transition them to Comparable Services within thirty (30) days of the last day of the Transition Period. Rates, terms and conditions for Comparable Services shall apply per the applicable tariff for such Comparable Services as of the date the order is completed. Where the CLEC requests to transition a minimum of fifteen (15) circuits per state, the CLEC may submit orders via a spreadsheet process and such orders will be project managed. In all other cases, the CLEC must submit such orders pursuant to the local service request/access service request (LSR/ASR) process, dependent on the Comparable Service elected. For such transitions, the non-recurring and recurring charges shall be those set forth in BellSouth's FCC#1 tariff, or as , otherwise agreed in a separately negotiated agreement. Until such time as</p>

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					<p>the Other Eliminated Elements are transitioned to such Comparable Services, such Other Eliminated Elements will be provided pursuant to the rates, terms and conditions applicable to the subject Other Eliminated Elements during the Transition Period as set forth in the Agreement.</p> <p>If the CLEC fails to identify and submit orders for any Other Eliminated Elements within thirty (30) days of the last day of the Transition Period, BellSouth may transition such Other Eliminated Elements to Comparable Services. The rates, terms and conditions for such Comparable Services shall apply as of the date following the end of the Transition Period. If no Comparable Services exist, then BellSouth may disconnect such Other Eliminated Elements if the CLEC does not submit such orders within thirty (30) days of the last day of the Transition Period. In such case the CLEC shall reimburse BellSouth for labor incurred in identifying such Other Eliminated Elements and processing such orders and the CLEC shall pay the applicable disconnect charges set forth in this Agreement. Until such time as</p>

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24	2-6	1.5.1	<i>This issue has been resolved.</i>		<p>the Other Eliminated Elements are disconnected pursuant to this Agreement, such Other Eliminated Elements will be provided pursuant to the rates, terms and conditions applicable to the subject Other Eliminated Elements during the Transition Period as set forth in this Agreement.</p> <p>In the event that the Interim Rules are vacated by a court of competent jurisdiction, the CLEC should immediately transition Mass Market Switching, Enterprise Market Loops and High Capacity Transport as set forth above, applied from the effective date of such vacatur, without regard to the Interim Period or Transition Period.</p> <p>In the event that any Network Element, other than those addressed above, is no longer required to be offered by BellSouth pursuant to Section 251 of the Act, the CLEC shall immediately transition such elements as set forth above, applied from the effective date of the order eliminating such obligation</p>

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25	2-7	1.6.1	<i>This issue has been resolved.</i>		
26	2-8	1.7	<i>Should BellSouth be required to commingle UNEs or Combinations with any service, network element or other offering that it is obligated to make available pursuant to Section 271 of the Act?</i>	YES, BellSouth should be required to "commingle" UNEs or Combinations of UNEs with any service, network element, or other offering that it is obligated to make available pursuant to Section 271 of the Act.	No, consistent with the FCC's errata to the Triennial Review Order, there is no requirement to commingle UNEs or combinations with services, network elements or other offerings made available only under Section 271 of the Act.
27	2-9	1.8.3	<i>This issue has been resolved.</i>		
28	2-10	1.9.4	<i>This issue has been resolved.</i>		
29	2-11	2.1.1	<i>This issue has been resolved.</i>		
30	2-12	2.1.1.1	<i>This issue has been resolved.</i>		
31	2-13	2.1.1.2	<i>This issue has been resolved.</i>		
32	2-14	2.1.2, 2.1.2.1, 2.1.2.2	<i>This issue has been resolved.</i>		
33	2-15	2.2.3	<i>This issue has been resolved.</i>		
34	2-16	2.3.3	<i>This issue has been resolved.</i>		
35	2-17	2.4.3, 2.4.4	<i>This issue has been resolved.</i>		
36	2-18	2.12.1	<i>(A) How should Line Conditioning be defined in</i>	<i>(A) Line Conditioning should be defined in the Agreement as set forth in FCC Rule 47</i>	<i>(A) Line Conditioning is defined as routine network modification that</i>

Item No.	Issue #	§	UNRESOLVED ISSUE	CLEC POSITION	BELL SOUTH POSITION
			<i>the Agreement?</i> <i>(B) What should BellSouth's obligations be with respect to Line Conditioning?</i>	CFR 51.319 (a)(1)(iii)(A) (B) BellSouth should perform Line Conditioning in accordance with FCC Rule 47 C.F.R. 51.319(a)(1)(iii).	BellSouth regularly undertakes to provide xDSL services to its own customers (B) BellSouth should perform line conditioning functions as defined in 47 C.F.R. 51.319(a)(1)(iii) to the extent the function is a routine network modification that BellSouth regularly undertakes to provide xDSL to its own customers.
37	2-19	2.12.2	<i>Should the Agreement contain specific provisions limiting the availability of load coil removal to copper loops of 18,000 feet or less?</i>	NO, the Agreement should not contain specific provisions limiting the availability of Line Conditioning (in this case, load coil removal) to copper loops of 18,000 feet or less in length.	Yes, current industry technical standards require the placement of load coils on copper loops greater than 18,000 feet in length to support voice service and BellSouth does not remove them for BellSouth retail end users on copper loops of over 18,000 feet in length; therefore, such a modification would not constitute a routine network modification and is not required by the FCC.
38	2-20	2.12.3, 2.12.4	<i>Under what rates, terms and conditions should BellSouth be required to perform Line Conditioning to remove bridged taps?</i>	Any copper loop being ordered by CLEC which has over 6,000 feet of combined bridged tap will be modified, upon request from CLEC, so that the loop will have a maximum of 6,000 feet of bridged tap. This modification will be performed at no additional charge to CLEC. Line Conditioning orders that require the removal of other bridged tap should be	For any copper loop being ordered by CLEC which has over 6,000 feet of combined bridged tap will be modified, upon request from CLEC, so that the loop will have a maximum of 6,000 feet of bridged tap. This modification will be performed at no additional charge to CLEC. Line conditioning orders that require the removal of bridged tap that

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				performed at the rates set forth in Exhibit A of Attachment 2.	serves no network design purpose on a copper loop that will result in a combined level of bridged tap between 2,500 and 6,000 feet will be performed at the rates set forth in Exhibit A of this Attachment. CLEC may request removal of any unnecessary and non-excessive bridged tap (bridged tap between 0 and 2,500 feet which serves no network design purpose), at rates pursuant to BellSouth's Special Construction Process contained in BellSouth's FCC No. 2 as mutually agreed to by the Parties. BellSouth is only required to perform line conditioning that it performs for its own xDSL customers and is not required to create a superior network for CLECs. Moreover, this issue is not appropriate for arbitration in this proceeding because it involves a request by the CLECs that is not encompassed within BellSouth's obligations pursuant to Section 251 of the Act.
39	2-21	2.12.6	<i>This issue has been resolved.</i>		
40	2-22	2.14.3.1.1	<i>This issue has been resolved.</i>		
41	2-23	2.16.2.3.2	<i>This issue has been resolved.</i>		

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42	2-24	2.17 3.5	<i>This issue has been resolved.</i>		
43	2-25	2.18 1.4	<i>Under what circumstances should BellSouth be required to provide CLEC with Loop Makeup information on a facility used or controlled by a carrier other than BellSouth?</i>	BellSouth should provide CLEC Loop Makeup information on a particular loop upon request by a Petitioner. Such access should not be contingent upon receipt of an LOA from a third party carrier.	Consistent with the policy crafted by the CLECs in the Shared Loop Collaborative, in conjunction with the CCP, BellSouth should provide CLEC Loop Makeup information on a facility used or controlled by another CLEC only upon receipt of an LOA authorizing the release of that information from the CLEC using the facility.
44	2-26	3.6.5	<i>This issue has been resolved.</i>		
45	2-27	3.10.3	<i>This issue has been resolved.</i>		
46	2-28	3.10.4	<i>This issue has been resolved.</i>		
47	2-29	4.2.2	<i>This issue has been resolved.</i>		
48	2-30	4.5.5	<i>This issue has been resolved.</i>		
49	2-31	5.2.4	<i>This issue has been resolved.</i>		
50	2-32	5.2.5.2.1, 5.2.5.2.3, 5.2.5.2.4, 5.2.5.2.4, 5.2.5.2.7	<i>How should the term "customer" as used in the FCC's EEL eligibility criteria rule be defined?</i>	The high capacity EEL eligibility criteria should be consistent with those set forth in the FCC's rules and should use the term "customer", as used in the FCC's rules. The term "customer" should not be defined in a manner that limits Petitioners' access to EELs, as BellSouth proposes. The FCC did	This issue is only appropriate for arbitration to the extent that high capacity EELs are available to CLECs and the associated service eligibility criteria apply. In the event that high capacity loops and transport are not available as UNEs pursuant to Section

ITEM NO.	ISSUE #	§	UNRESOLVED ISSUE	CLEC POSITION	BELL SOUTH POSITION
				not limit its term "customer" to the restrictive definition of End User sought by BellSouth. Use of the term "End User" as defined by BellSouth may result in a deviation from the FCC rules to which CLECs are unwilling to agree.	251, this issue is not appropriate for arbitration. During the Transition Period mandated by the Interim Rules, the Commission should find as follows regarding this issue. The term "customer" as used in the FCC's EEL eligibility criteria should be defined as the end user of an EEL. The high capacity EEL eligibility criteria apply only to End User circuits since a loop is a component of the EEL and the FCC definition of a loop requires that it terminate to an "end-user" customer' premises.
51	2-33	5.2.6, 5.2.6.1, 5.2.6.2, 5.2.6.2.1, 5.2.6.2.3	(A) <i>This issue has been resolved.</i> (B) <i>Should there be a notice requirement for BellSouth to conduct an audit and what should the notice include?</i> (C) <i>Who should conduct the audit and how should the audit be performed?</i>	(B) YES, it is the CLECs' position that to invoke its limited right to audit CLEC's records in order to verify compliance with the high capacity EEL service eligibility criteria, BellSouth should send a Notice of Audit to the CLECs, identifying the particular circuits for which BellSouth alleges non-compliance and demonstrating the cause upon which BellSouth rests its allegations. The Notice of Audit should also include all supporting documentation upon which BellSouth establishes the cause that forms the basis of BellSouth's allegations of noncompliance. Such Notice of Audit should be delivered to the CLECs with all supporting documentation no less than thirty (30) days prior to the date upon	This issue is only appropriate for arbitration to the extent that high capacity EELs are available to CLECs and the associated service eligibility criteria apply. In the event that high capacity loops and transport are not available as UNEs pursuant to Section 251, this issue is not appropriate for arbitration. During the Transition Period mandated by the Interim Rules, the Commission should find as follows regarding this issue: (B) BellSouth will provide notice to CLECs stating the cause upon which BellSouth rests its allegations of noncompliance with the service

ITEM NO.	ISSUE #	§	UNRESOLVED ISSUE	CLEC POSITION	BELL SOUTH POSITION
				<p>which BellSouth seeks to commence an audit.</p> <p>(C) The audit should be conducted by a third party independent auditor mutually agreed-upon by the Parties.</p>	<p>eligibility criteria at least 30 calendar days prior to the date of the audit.</p> <p>(C) The audit shall be conducted by an independent auditor, and the auditor must perform its evaluation in accordance with the standards established by the American Institute for Certified Public Accountants (AICPA). The auditor will perform an "examination engagement" and issue an opinion regarding CLEC's compliance with the qualifying service eligibility criteria. The independent auditor's report will conclude whether CLEC has complied in all material respects with the applicable service eligibility criteria. Consistent with standard auditing practices, such audits require compliance testing designed by the independent auditor, which typically include an examination of a sample selected in accordance with the independent auditor's judgment. (B) No, a notice requirement is not required by the FCC's TRO.</p>
52	2-34	5 2.6.2.3	<i>This issue has been resolved.</i>		
53	2-35	6.1.1	<i>This issue has been resolved.</i>		

ITEM No.	ISSUE #	S	UNRESOLVED ISSUE	CLEC POSITION	BELL SOUTH POSITION
54	2-36	6.1.1.1	<i>This issue has been resolved.</i>		
55	2-37	6.4.2	<i>This issue has been resolved.</i>		
56	2-38	7.2, 7.3	<i>This issue has been resolved.</i>		
57	2-39	7.4	<i>This issue has been resolved.</i>		
58	2-40	9.3.5	<i>This issue has been resolved.</i>		
59	2-41	14.1	<i>This issue has been resolved.</i>		
INTERCONNECTION (ATTACHMENT 3)					
60	3-1	3.3.4 (KMC, NSC, NVX) 3.3.3 XSP)	<i>This issue has been resolved.</i>		
61	3-2	9.6 (KMC), 9.6 (NSC), 9.6 (NVX, XSP)	<i>This issue has been resolved.</i>		
62	3-3	10.7.4 (NSC), 10.7.4 (NVX), 10.12.4 (XSP)	<i>This issue has been resolved.</i>		

ITEM No.	ISSUE #	§	UNRESOLVED ISSUE	CLEC POSITION	BELL SOUTH POSITION
63	3-4	10.8.6 (NSC), 10.8.6 (NVX), 10.13.5 (XSP)	<i>Under what terms should CLEC be obligated to reimburse BellSouth for amounts BellSouth pays to third party carriers that terminate BellSouth transited/CLEC originated traffic?</i>	In the event that a terminating third party carrier imposes on BellSouth any charges or costs for the delivery of Transit Traffic originated by CLEC, the CLEC should reimburse BellSouth for all charges paid by BellSouth, which BellSouth is obligated to pay pursuant to contract or Authority order. Moreover, CLECs should not be required to reimburse BellSouth for any charges or costs related to Transit Traffic for which BellSouth has assumed responsibility through a settlement agreement with a third party. BellSouth should diligently review, dispute and pay such third party invoices (or equivalent) in a manner that is at parity with its own practices for reviewing, disputing and paying such invoices (or equivalent) when no similar reimbursement provision applies.	In the event that a terminating third party carrier imposes on BellSouth any charges or costs for the delivery of Transit Traffic originated by CLEC, CLEC should reimburse BellSouth for all charges paid by BellSouth.
64	3-5	10.7.4.2 (KMC), 10.5.5.2 (NSC), 10.5.6.2 (NVX) 10.10.6 (XSP)	<i>This issue has been resolved.</i>		
65	3-6	10.10.1 (KMC), 10.8.1 (NSC/	<i>Should BellSouth be allowed to charge the CLEC a Transit Intermediary Charge for</i>	NO, BellSouth should not be permitted to impose upon CLEC a Transit Intermediary Charge ("TIC") for the transport and termination of Local Transit Traffic and	Yes, BellSouth is not obligated to provide the transit function and the CLEC has the right pursuant to the Act to request direct interconnection to other

ITEM NO.	ISSUE #	§	UNRESOLVED ISSUE	CLEC POSITION	BELLSOUTH POSITION
		NVX) 10 13 (XSP)	<i>the transport and termination of Local Transit Traffic and ISP-Bound Transit Traffic?</i>	ISP-Bound Transit Traffic The TIC is a non-TELRIC based additive charge which exploits BellSouth's market power and is discriminatory.	carriers Additionally, BellSouth incurs costs beyond those for which the Authority ordered rates were designed to address, such as the costs of sending records to the CLECs identifying the originating carrier. BellSouth does not charge the CLEC for these records and does not recover those costs in any other form Moreover, this issue is not appropriate for arbitration in this proceeding because it involves a request by the CLECs that is not encompassed within BellSouth's obligations pursuant to Section 251 of the Act.
66	3-7	10.1 (KMC),10 .1 (XSP)	<i>This issue has been resolved.</i>		
67	3-8	10.2, 10.3 (XSP)	<i>This issue has been resolved.</i>		
68	3-9	2.1.12 (XSP)	<i>This issue has been resolved.</i>		
69	3-10	3.2 (XSP), Ex. A (XSP)	<i>This issue has been resolved.</i>		
70	3-11	3.3.1, 3.3.2, 3.45, 10.10 2 (XSP)	<i>This issue has been resolved.</i>		
71	3-12	4.5 (XSP)	<i>This issue has been resolved.</i>		

ITEM NO.	ISSUE #	\$	UNRESOLVED ISSUE	CLCC POSITION	BEL SOUTH POSITION
72	3-13	4 6 (XSP)	<i>This issue has been resolved.</i>		
73	3-14	10.10.4, 10.10.5, 10.10.6, 10.10.7 (XSP)	<i>This issue has been resolved.</i>		
COLLOCATION (ATTACHMENT 4)					
74	4-1	3.9	<i>This issue has been resolved.</i>		
75	4-2	5.21.1, 5.21.2	<i>This issue has been resolved.</i>		
76	4-3	8.1, 8 6	<i>This issue has been resolved.</i>		
77	4-4	8.4	<i>This issue has been resolved.</i>		
78	4-5	8.6	<i>This issue has been resolved.</i>		
79	4-6	8.11, 8.11.1, 8.11.2	<i>This issue has been resolved.</i>		
80	4-7	9 1 1	<i>This issue has been resolved.</i>		
81	4-8	9.1.2, 9.1.3	<i>This issue has been resolved.</i>		
82	4-9	9 3	<i>This issue has been resolved.</i>		
83	4-10	13.6	<i>This issue has been resolved.</i>		

ITEM NO.	ISSUE #	§	UNRESOLVED ISSUE	CLEC POSITION	BELL SOUTH POSITION
ORDERING (ATTACHMENT 6)					
84	6-1	2.5.1	<i>This issue has been resolved.</i>		
85	6-2	2.5.5	<i>This issue has been resolved.</i>		
86	6-3	2.5.6.2, 2.5.6.3	<p>(A) <i>This issue has been resolved.</i></p> <p>(B) <i>How should disputes over alleged unauthorized access to CSR information be handled under the Agreement?</i></p>	<p>(B) If one Party disputes the other Party's assertion of non-compliance, that Party should notify the other Party in writing of the basis for its assertion of compliance. If the receiving Party fails to provide the other Party with notice that appropriate corrective measures have been taken within a reasonable time or provide the other Party with proof sufficient to persuade the other Party that it erred in asserting the non-compliance, the requesting Party should proceed pursuant to the Dispute Resolution provisions set forth in the General Terms and Conditions and the Parties should cooperatively seek expedited resolution of the dispute. "Self help", in the form of suspension of access to ordering systems and discontinuance of service, is inappropriate and coercive. Moreover, it effectively denies one Party the due process contemplated by the Dispute Resolution provisions incorporated in the General Terms and Conditions of the Agreement.</p>	<p>(B) The Party providing notice of such impropriety should provide notice to the offending Party that additional applications for service may be refused, that any pending orders for service may not be completed, and/or that access to ordering systems may be suspended if such use is not corrected or ceased by the fifth (5th) calendar day following the date of the notice. In addition, the alleging Party may, at the same time, provide written notice to the person(s) designated by the other Party to receive notices of noncompliance that the alleging Party may terminate the provision of access to ordering systems to the other Party and may discontinue the provisioning of existing services if such use is not corrected or ceased by the tenth (10th) calendar day following the date of the initial notice. If the other Party disagrees with the alleging Party's allegations of unauthorized use, the other Party shall proceed pursuant to the dispute resolution provisions set forth in the General Terms and Conditions.</p>

Item No.	Issue #	§	UNRESOLVED ISSUE	CLEC POSITION	BELL SOUTH POSITION
87	6-4	2 6	<i>This issue has been resolved.</i>		
88	6-5	2 6 5	<i>What rate should apply for Service Date Advancement (a/k/a service expedites)?</i>	Rates for Service Date Advancement (a/k/a service expedites) related to UNEs, interconnection or collocation should be set consistent with TELRIC pricing principles.	BellSouth is not required to provide expedited service pursuant to The Act If BellSouth elects to offer expedite capability as an enhancement to a CLEC, BellSouth's tariffed rates for service date advancement should apply. Moreover, this issue is not appropriate for arbitration in this proceeding because it involves a request by the CLECs that is not encompassed within BellSouth's obligations pursuant to Section 251 of the Act.
89	6-6	2.6.25	<i>This issue has been resolved.</i>		
90	6-7	2.6.26	<i>This issue has been resolved.</i>		
91	6-8	2.7.10.4	<i>This issue has been resolved.</i>		
92	6-9	2 9.1	<i>This issue has been resolved.</i>		
93	6-10	3.1.1	<i>This issue has been resolved.</i>		
94	6-11	3.1.2, 3.1.2.1	<i>(A) Should the mass migration of customer service arrangements resulting from mergers, acquisitions and asset transfers be accomplished by the submission of an</i>	<i>(A) YES, mass migration of customer service arrangements (e.g., UNEs, Combinations, resale) should be accomplished pursuant to submission of electronic LSR or, if mutually agreed to by the Parties, by submission of a spreadsheet in a mutually agreed-upon format. Until</i>	<i>This issue (including all subparts) is not appropriate for arbitration in this proceeding because it involves a request by the CLECs that is not encompassed within BellSouth's obligations pursuant to Section 251 of the Act.</i>

ITEM NO.	ISSUE #	§	UNRESOLVED ISSUE	CLEC POSITION	BELL SOUTH POSITION
			<p><i>electronic LSR or spreadsheet?</i></p> <p><i>(B) If so, what rates should apply?</i></p> <p><i>(C) What should be the interval for such mass migrations of services?</i></p>	<p>such time as an electronic LSR process is available, a spreadsheet containing all relevant information should be used.</p> <p>(B) An electronic OSS charge should be assessed per service arrangement migrated. In addition, BellSouth should only charge Petitioners a TELRIC-based records change charge, as set forth in Exhibit A of Attachment 2, for migrations of customers of customers for which no physical re-termination of circuits must be performed. Similarly, BellSouth should establish and only charge Petitioners a TELRIC-based charge, as set forth in Exhibit A of Attachment 2, for migrations of customers for which physical re-termination of circuits is required.</p> <p>(C) Migrations should be completed within ten (10) calendar days of an LSR or spreadsheet submission.</p>	<p>(A) No, each and every Merger, Acquisition and Asset Transfer is unique and requires project management and planning to ascertain the appropriate manner in which to accomplish the transfer, including how orders should be submitted. The vast array of services that may be the subject of such a transfer, under the agreement and both state and federal tariffs, necessitates that various forms of documentation may be required.</p> <p>(B) The rates by necessity must be negotiated between the Parties based upon the particular services to be transferred and the work involved.</p> <p>(C) No finite interval can be set to cover all potential situations. While shorter intervals can be committed to and met for small, simple projects, larger and more complex projects require much longer intervals and prioritization and cooperation between the Parties.</p>
BILLING (ATTACHMENT 7)					
95	7-1	11.3	<i>What time limits should apply to backbilling, over-billing, and under-billing issues?</i>	There should be an explicit, uniform limitation on a Party's ability to engage in backbilling under this Agreement. The Authority should adopt the CLEC proposed language, which would limit a Party's	All charges incurred under the agreement should be subject to the state's statute of limitations or applicable Authority rules. Back-billing alone should not be subject to a shorter

ITEM NO.	ISSUE #	§	UNRESOLVED ISSUE	CLEC POSITION	BELL SOUTH POSITION
				<p>ability to bill for services rendered no more than ninety (90) calendar days after the bill date on which those charges ordinarily would have been billed. For purposes of ensuring that a party could reconcile backbilled amounts, the CLEC proposed language provides that billed amounts for services that are rendered more than one (1) billing period prior to the bill date should be invalid unless the billing Party identifies such billing as "backbilling" on a line-item basis. Finally, the CLEC proposed language provides an exemption to the ninety (90) day limit whereby backbilling beyond ninety (90) calendar days and up to a limit of six (6) months after the date upon which the bill ordinarily would have been issued may be invoiced under the following conditions: (1) charges connected with jointly provided services whereby meet point billing guidelines require either Party to rely on records provided by a third party and such records have not been provided in a timely manner; and (2) charges incorrectly billed due to erroneous information supplied by the non-billing Party. With respect to over-billing, the Parties have negotiated and separately agreed to a 2-year limit on filing billing disputes (thus, Petitioners do not believe that BellSouth properly has inserted this as a sub-issue here). With respect to under-billing, Petitioners believe that the</p>	<p>limitations period than any other claims related to billing under the agreement.</p>

ITEM NO.	ISSUE #	§	UNRESOLVED ISSUE	CLEC POSITION	BELL SOUTH POSITION
96	7-2	1.2.2	(A) What charges, if any, should be imposed for records changes made by the Parties to reflect changes in corporate names or other LEC identifiers such as OCN, CC, CIC and ACNA? (B) What intervals should apply to such changes?	subissue is covered by any provisions that address backbilling. (A) Charges for updating OSS to reflect such changes as corporate name, OCN, CC, CIC, ACNA and similar changes ("LEC Changes") should be TELRIC-compliant. (B) "LEC Changes" should be accomplished in thirty (30) calendar days and should result in no delay or suspension of ordering or provisioning of any element or service provided pursuant to this Agreement, or access to any pre-order, order, provisioning, maintenance or repair interfaces. Finally, with regard to a Billing Account Number ("BAN"), the CLECs proposed language provides that, at the request of a Party, the other Party will establish a new BAN within ten (10) calendar days.	This issue (including all subparts) is not appropriate for arbitration in this proceeding because it involves a request by the CLECs that is not encompassed within BellSouth's obligations pursuant to Section 251 of the Act. (A) BellSouth is permitted to recover its costs and CLEC should be charged a reasonable records change charge. Requests for this type of change should be submitted to the BFR/NBR process. (B) The Interval of any such project would be determined by the BFR/NBR process based upon the complexity of the project.
97	7-3	1.4	When should payment of charges for service be due?	Payment of charges for services rendered should be due thirty (30) calendar days from receipt or website posting of a complete and fully readable bill or within thirty (30) calendar days from receipt or website posting of a corrected or retransmitted bill in those cases where correction or retransmission is necessary for processing	Payment for services should be due on or before the next bill date (Payment Due Date) in immediately available funds.
98	7-4	1.6	<i>This issue has been resolved.</i>		

ITEM NO.	ISSUE #	§	UNRESOLVED ISSUE	CLEC POSITION	BELL SOUTH POSITION
99	7-5	1.7.1	<i>What recourse should a Party have if it believes the other Party is engaging in prohibited, unlawful or improper use of its facilities or services, abuse of the facilities or noncompliance with the Agreement or applicable tariffs?</i>	Each Party should have the right to suspend access to ordering systems for and to terminate particular services or access to facilities that are being used in an unlawful, improper or abusive manner. However, such remedial action should be limited to the services or facilities in question and such suspension or termination should not be imposed unilaterally by one Party over the other's written objections to or denial of such accusations. In the event of such a dispute, "self help" should not supplant the Dispute Resolution process set forth in the Agreement	Each Party should have the right to suspend or terminate service in the event it believes the other party is engaging in one of these practices
100	7-6	1.7.2	<i>Should CLEC be required to pay past due amounts in addition to those specified in BellSouth's notice of suspension or termination for nonpayment in order to avoid suspension or termination?</i>	NO, CLECs should not be required to calculate and pay past due amounts in addition to those specified in BellSouth's notice of suspension or termination for nonpayment in order to avoid suspension or termination. Rather, if a Petitioner receives a notice of suspension or termination from BellSouth, with a limited time to pay non-disputed past due amounts, Petitioner should be required to pay only those amount past due as of the date of the notice and as expressly and plainly indicated on the notice, in order to avoid suspension or termination. Otherwise, CLEC will risk suspension or termination due to possible calculation and timing errors.	Yes, if CLEC receives a notice of suspension or termination from BellSouth as a result of CLEC's failure to pay timely, CLEC should be required to pay all amounts that are past due as of the date of the pending suspension or termination action.

ITEM No.	ISSUE #	§	UNRESOLVED ISSUE	CLEC POSITION	BELL SOUTH POSITION
101	7-7	1 8.3	<i>How many months of billing should be used to determine the maximum amount of the deposit?</i>	The maximum amount of a deposit should not exceed two month's estimated billing for new CLECs or one and one-half month's actual billing for existing CLECs (based on average monthly billings for the most recent six (6) month period). The one and one-half month's actual billing deposit limit for existing CLECs is reasonable given that balances can be predicted with reasonable accuracy and that significant portions of services are billed in advance.	The average of two (2) months of actual billing for existing customers or estimated billing for new customers, which is consistent with the telecommunications industry's standard and BellSouth's practice with its end users.
102	7-8	1 8.3.1	<i>Should the amount of the deposit BellSouth requires from CLEC be reduced by past due amounts owed by BellSouth to CLEC?</i>	YES, the amount of security due from an existing CLEC should be reduced by amounts due CLEC by BellSouth aged over thirty (30) calendar days. BellSouth may request additional security in an amount equal to such reduction once BellSouth demonstrates a good payment history, as defined in the deposit provisions of Attachment 7 of the Agreement. This provision is appropriate given that the Agreement's deposit provisions are not reciprocal and that BellSouth's payment history with CLECs is often poor.	NO, CLEC's remedy for addressing late payment by BellSouth should be suspension/termination of service or application of interest/late payment charges similar to BellSouth's remedy for addressing late payment by CLEC.
103	7-9	1 8.6	<i>Should BellSouth be entitled to terminate service to CLEC pursuant to the process for termination due to non-payment if CLEC refuses to remit any deposit required</i>	NO, BellSouth should have a right to terminate services to CLEC for failure to remit a deposit requested by BellSouth only in cases where (a) CLEC agrees that such a deposit is required by the Agreement, or (b) the Authority has ordered payment of such deposit. A dispute over a requested deposit	Yes, thirty (30) calendar days is a commercially reasonable time period within which CLEC should have met its fiscal responsibilities.

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			<i>by BellSouth within 30 calendar days?</i>	should be addressed via the Agreement's Dispute Resolution provisions and not through "self-help".	
104	7-10	1.8.7.	<i>What recourse should be available to either Party when the Parties are unable to agree on the need for or amount of a reasonable deposit?</i>	If the Parties are unable to agree on the need for or amount of a reasonable deposit, either Party should be able to file a petition for resolution of the dispute and both parties should cooperatively seek expedited resolution of such dispute.	If CLEC does not agree with the amount or need for a deposit requested by BellSouth, CLEC may file a petition with the Authority for resolution of the dispute and BellSouth would cooperatively seek expedited resolution of such dispute. BellSouth shall not terminate service during the pendency of such a proceeding provided that CLEC posts a payment bond for the amount of the requested deposit during the pendency of the proceeding.
105	7-11	1.8.9	<i>This issue has been resolved.</i>		
106	7-12	1.9.1	<i>This issue has been resolved.</i>		
BER/NBR (ATTACHMENT 11)					
107	11-1	1.5, 1.8.1, 1.9, 1.10	<i>This issue has been resolved.</i>		
SUPPLEMENTAL ISSUES					
108	S-1		<i>The Pre-Arbitration Officer has ruled that this issue can be addressed by the Authority using other procedures and that it may not be included in this arbitration.</i>		

ITEM NO.	ISSUE #	S	UNRESOLVED ISSUE	CLEC POSITION	BELLSOUTH POSITION
109	S-2		<i>The Pre-Arbitration Officer has ruled that this issue can be addressed by the Authority using other procedures and that it may not be included in this arbitration.</i>		
110	S-3		<i>The Pre-Arbitration Officer has ruled that this issue can be addressed by the Authority using other procedures and that it may not be included in this arbitration.</i>		
111	S-4		<i>The Pre-Arbitration Officer has ruled that this issue can be addressed by the Authority using other procedures and that it may not be included in this arbitration.</i>		
112	S-5		<i>The Pre-Arbitration Officer has ruled that this issue can be addressed by the Authority using other procedures and that it may not be included in this arbitration.</i>		

ITEM NO.	ISSUE	§	UNRESOLVED ISSUE	CLEC POSITION	BELL SOUTH POSITION
113	S-6		<i>The Pre-Arbitration Officer has ruled that this issue can be addressed by the Authority using other procedures and that it may not be included in this arbitration.</i>		
114	S-7		<i>The Pre-Arbitration Officer has ruled that this issue can be addressed by the Authority using other procedures and that it may not be included in this arbitration.</i>		
115	S-8		<i>This issue has been resolved.</i>		

JOINT PETITIONERS' EXHIBIT A

DISPUTED CONTRACT LANGUAGE BY ISSUE

GENERAL TERMS AND CONDITIONS

Item No 2, Issue No G-2 [Section 1 7] How should "End User" be defined?

- 1.7 ~~CLEC Version~~ End User means the customer of a Party.
- [BellSouth Version] End User means the **ultimate user of the Telecommunications Service.**

Item No 4, Issue No G-4 [Section 10 4.1] What should be the limitation on each Party's liability in circumstances other than gross negligence or willful misconduct?

- 10.4.1 ~~CLEC Version~~ Except for any indemnification obligations of the Parties hereunder, **with respect to any claim or suit, whether based in contract, tort or any other theory of legal liability, by either Party, any End User of either Party, or by any other person or entity, for damages associated with any of the services provided pursuant to or in connection with this Agreement, including but not limited to the installation, provision, preemption, termination, maintenance, repair or restoration of service, and, in any event, subject to the provisions of the remainder of this Section, each Party's liability shall be limited to and shall not exceed in aggregate amount over the entire term hereof an amount equal to seven-and-one half percent (7.5%) of the aggregate fees, charges or other amounts paid or payable to such Party for any and all services provided or to be provided by such Party pursuant to this Agreement as of the Day on which the claim arose; provided that the foregoing provisions shall not be deemed or construed as (A) imposing or allowing for any liability of either Party for (x) indirect, special or consequential damages as otherwise excluded pursuant to Section 10.4.4 below or (y) any other amount or nature of damages to the extent resulting directly and proximately from the claiming Party's failure to act at all relevant times in a commercially reasonable manner in compliance with such Party's duties of mitigation with respect to all applicable damages or (B) limiting either Party's right to recover appropriate refund(s) of or rebate(s)**

or credit(s) for fees, charges or other amounts paid at Agreement rates for services not performed or provided or otherwise failing to comply (with applicable refund, rebate or credit amounts measured by the diminution in value of services reasonably resulting from such noncompliance) with the applicable terms and conditions of this Agreement. Notwithstanding the foregoing, claims or suits for damages by either Party, any End User of either Party, or by any other person or entity, to the extent resulting from the gross negligence or willful misconduct of the other Party, shall not be subject to the foregoing limitation of liability.

[BellSouth Version] Except for any indemnification obligations of the Parties hereunder, and except in cases of the provisioning Party's gross negligence or willful misconduct, each Party's liability to the other for any loss, cost, claim, injury, liability or expense, including reasonable attorneys' fees relating to or arising out of any negligent act or omission in its performance of this Agreement, whether in contract or in tort, shall be limited to a credit for the actual cost of the services or functions not performed or improperly performed.

Item No 5, Issue No G-5 [Section 10 4 2] (A) To the extent that a Party does not or is unable to include specific limitation of liability terms in all of its tariffs and End User contracts (past, present and future), should it be obligated to indemnify the other Party for liabilities not limited?

(B) If the CLEC does not have in its contracts with end users and/or tariffs standard industry limitations of liability, who should bear the resulting risks?

10.4 2

[CLEC Version] No Section.

[BellSouth Version] **Limitations in Tariffs.** A Party may, in its sole discretion, provide in its tariffs and contracts with its End Users and third parties that relate to any service, product or function provided or contemplated under this Agreement, that to the maximum extent permitted by Applicable Law, such Party shall not be liable to the End User or third party for (i) any loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such Party would have charged that applicable person for the service, product or function that gave rise to such loss and (ii) consequential damages. To the extent that a Party elects not to place in its tariffs or contracts such limitations of liability, and the other Party incurs a loss as a result thereof, such Party shall indemnify and reimburse the other Party for that portion of the loss that would have been limited had the first Party included in its tariffs and contracts the limitations

of liability that such other Party included in its own tariffs at the time of such loss.

Item No 6, Issue No G-6 [Section 10 4 4] (A) Should the Agreement expressly state that liability for claims or suits for damages incurred by CLEC's (or BellSouth's) customers/End Users resulting directly and in a reasonably foreseeable manner from BellSouth's (or CLEC's) performance of obligations set forth in the Agreement are not indirect, incidental or consequential damages?

(B) How should indirect, incidental or consequential damages be defined for purposes of the Agreement?

10.4 4

[CLEC Version] Nothing in this Section 10 shall limit a Party's obligation to indemnify or hold harmless the other Party set forth elsewhere in this Agreement. Except in cases of gross negligence or willful or intentional misconduct, under no circumstance shall a Party be responsible or liable for indirect, incidental, or consequential damages **provided that neither the foregoing nor any other provision of this Section 10 shall be deemed or construed as imposing any limitation on the liability of a Party for claims or suits for damages incurred by End Users of the other Party or by such other Party vis-à-vis its End Users to the extent such damages result directly and in a reasonably foreseeable manner from the first Party's performance of services hereunder and were not and are not directly and proximately caused by or the result of such Party's failure to act at all relevant times in a commercially reasonable manner in compliance with such Party's duties of mitigation with respect to such damage.** In connection with this limitation of liability, each Party recognizes that the other Party may, from time to time, provide advice, make recommendations, or supply other analyses related to the services or facilities described in this Agreement, and, while each Party shall use diligent efforts in this regard, the Parties acknowledge and agree that this limitation of liability shall apply to provision of such advice, recommendations, and analyses.

[BellSouth Version] Nothing in this Section 10 shall limit a Party's obligation to indemnify or hold harmless the other Party set forth elsewhere in this Agreement. Except in cases of gross negligence or willful or intentional misconduct, under no circumstance shall a Party be responsible or liable for indirect, incidental, or consequential damages. In connection with this limitation of liability, each Party recognizes that the other Party may, from time to time, provide advice, make recommendations, or supply other analyses related to the services or facilities described in this Agreement, and, while each Party shall use diligent efforts in this

regard, the Parties acknowledge and agree that this limitation of liability shall apply to provision of such advice, recommendations, and analyses.

Item No 7, Issue No G-7 [Section 10.5] What should the indemnification obligations of the parties be under this Agreement?

10 5

[CLEC Version] Indemnification for Certain Claims. The Party providing services hereunder, its Affiliates and its parent company, shall be indemnified, defended and held harmless by the Party receiving services hereunder against any claim for libel, slander or invasion of privacy arising from the content of the receiving Party's own communications. **The Party receiving services hereunder, its Affiliates and its parent company, shall be indemnified, defended and held harmless by the Party providing services hereunder against any claim, loss or damage to the extent arising from (1) the providing Party's failure to abide by Applicable Law, or (2) injuries or damages arising out of or in connection with this Agreement to the extent caused by the providing Party's negligence, gross negligence or willful misconduct.**

[BellSouth Version] Indemnification for Certain Claims. The Party providing services hereunder, its Affiliates and its parent company, shall be indemnified, defended and held harmless by the Party receiving services hereunder against any claim, loss or damage arising from the receiving Party's use of the services provided under this Agreement pertaining to (1) claims for libel, slander or invasion of privacy arising from the content of the receiving Party's own communications, or (2) any claim, loss or damage claimed by the End User of the Party receiving services arising from such company's use or reliance on the providing Party's services, actions, duties, or obligations arising out of this Agreement.

Item No 8, Issue No G-8 [Section 11.1] What language should be included in the Agreement regarding a Party's use of the other Party's name, service marks, logos and trademarks?

11.1 **[CLEC Version]** No License. No patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by this Agreement. **A Party's use of the other Party's name, service marks and trademarks shall be in accordance with Applicable Law.**

[BellSouth Version] No License No patent, copyright, trademark or other proprietary right is licensed, granted or otherwise transferred by this Agreement **The Parties are strictly prohibited from any use, including but not limited to, in the selling, marketing, promoting or advertising of telecommunications services, of any name, service mark, logo or trademark (collectively, the "Marks") of the Other Party. The Marks include those Marks owned directly by a Party or its Affiliate(s) and those Marks that a Party has a legal and valid license to use. Notwithstanding the foregoing, <<customer_short_name>> may make factual references to the BellSouth name as necessary to respond to direct inquiries from customers or potential customers regarding the source of the underlying services or the identity of repair technicians. The Parties acknowledge that they are separate and distinct and that each provides a separate and distinct service and agree that neither Party may, expressly or impliedly, state, advertise or market that it is or offers the same service as the other Party or engage in any other activity that may result in a likelihood of confusion between its own service and the service of the Other Party.**

Item No 9, Issue No G-9 [Section 13.1]. Should a court of law be included in the venues available for initial dispute resolution?

13.1 **[CLEC Version]** Except as otherwise stated in this Agreement, the Parties agree that if any dispute arises as to the interpretation of any provision of this Agreement or as to the proper implementation of this Agreement, either Party may petition the FCC, the Commission or a court of law for a resolution of the dispute. Either Party may seek expedited resolution by the Commission, and may request that resolution occur in no event later than sixty (60) calendar days from the date of submission of such dispute. The other Party will not object to such expedited resolution of a dispute. If the FCC or Commission appoints an expert(s) or other facilitator(s) to assist in

its decision making, each party shall pay half of the fees and expenses so incurred to the extent the FCC or the Commission requires the Parties to bear such fees and expenses. Each Party reserves any rights it may have to seek judicial review of any ruling made by the FCC, the Commission or a court of law concerning this Agreement. Until the dispute is finally resolved, each Party shall continue to perform its obligations under this Agreement, unless the issue as to how or whether there is an obligation to perform is the basis of the dispute, and shall continue to provide all services and payments as prior to the dispute provided however, that neither Party shall be required to act in any unlawful fashion.

13. [BellSouth Version] Resolution of Disputes

13.1 Except for procedures that outline the resolution of billing disputes which are set forth in Section 2 of Attachment 7, each Party agrees to notify the other Party in writing of a dispute concerning this Agreement. If the Parties are unable to resolve the issues relating to the dispute in the normal course of business then either Party shall file a complaint with the Commission to resolve such issues or, as explicitly otherwise provided for in this Agreement, may proceed with any other remedy pursuant to law or equity as provided for in this Section 13.

13.2 Except as otherwise stated in this Agreement, or for such matters which lie outside the jurisdiction or expertise of the Commission or FCC, if any dispute arises as to the enforcement of terms and conditions of this Agreement, and/or as to the interpretation of any provision of this Agreement, the aggrieved party, to the extent seeking resolution of such dispute, must seek such resolution before the Commission or the FCC in accordance with the Act. Each Party reserves any rights it may have to seek judicial review of any ruling made by the Commission concerning this Agreement. Either Party may seek expedited resolution by the Commission. During the Commission proceeding each Party shall continue to perform its obligations under this Agreement; provided, however, that neither Party shall be required to act in an unlawful fashion.

13.3 Except to the extent the Commission is authorized to grant temporary equitable relief with respect to a dispute arising as to the enforcement of terms and conditions of this Agreement, and/or as to the interpretation of any provision of this Agreement, this Section 13 shall not prevent either Party from seeking any temporary equitable relief, including a temporary restraining order, in a court of competent jurisdiction.

13.4 In addition to Sections 13.1 and 13.2 above, each Party shall have the right to seek legal and equitable remedies on any and all legal and equitable theories in any court of competent jurisdiction for any and all claims, causes of action, or other proceedings not arising: (i) as to the enforcement of any

provision of this Agreement, or (ii) as to the enforcement or interpretation under applicable federal or state telecommunications law. Moreover, if the Commission would not have authority to grant an award of damages after issuing a ruling finding fault or liability in connection with a dispute under this Agreement, either Party may pursue such award in any court of competent jurisdiction after such Commission finding.

Item No 12, Issue No G-12 [Section 32 2] Should the Agreement explicitly state that all existing state and federal laws, rules, regulations, and decisions apply unless otherwise specifically agreed to by the Parties?

32 2

[CLEC Version] Nothing in this Agreement shall be construed to limit a Party's rights or exempt a Party from obligations under Applicable Law, except in such cases where the Parties have explicitly agreed to a limitation or exemption. Silence shall not be construed to be such a limitation or exemption with respect to any aspect, no matter how discrete, of Applicable Law.

[BellSouth Version] This Agreement is intended to memorialize the Parties' mutual agreement with respect to their obligations under the Act and applicable FCC and Commission rules and orders. To the extent that either Party asserts that an obligation, right or other requirement, not expressly memorialized herein, is applicable under this Agreement by virtue of a reference to an FCC or Commission rule or order or Applicable Law, and such obligation, right or other requirement is disputed by the other Party, the Party asserting that such obligation, right or other requirement is applicable shall petition the Commission for resolution of the dispute and the Parties agree that any finding by the Commission that such obligation, right or other requirement exists shall be applied prospectively by the Parties upon amendment of the Agreement to include such obligation, right or other requirement and any necessary rates, terms and conditions, and the Party that failed to perform such obligation, right or other requirement shall be held harmless from any liability for such failure until the obligation, right or other requirement is expressly included in this Agreement by amendment hereto.

ATTACHMENT 2

NETWORK ELEMENTS AND OTHER SERVICES

Item No 23, Issue No 2-5 [Section 1 11] What rates, terms, and conditions should govern the CLECs' transition of existing network elements that BellSouth is no longer obligated to provide as UNEs to other services?

[CLEC Version] In the event section 251 UNEs or Combinations are no longer offered pursuant to, or are not in compliance with, the terms set forth in the Agreement, including any transition plan set forth herein or established by the FCC or Authority, BellSouth may provide notice ("transition notice") to <<customer_short_name>> identifying specific service arrangements (by circuit identification number) that it no longer is obligated to provide as section 251 UNEs and that it insists be transitioned to other service arrangements. <<customer_short_name>> will acknowledge receipt of such notice and will have 30 days from such receipt to verify the list, notify BellSouth of initial disputes or concerns regarding such list, or select alternative service arrangements (or disconnection). <<customer_short_name>> and BellSouth will then confer to determine the appropriate orders to be submitted (i.e., spreadsheets, LSRs or ASRs). Such orders shall be submitted within 10 days of agreement upon the appropriate method (i.e., spreadsheets, LSRs or ASRs) and such agreement shall not be unreasonably withheld or delayed. There will be no service order, labor, disconnection, project management or other nonrecurring charges associated with the transition of section 251 UNEs to other service arrangements. The Parties will absorb their own costs associated with effectuating the process set forth in this section. In all cases, until the transition of any section 251 UNE to another service arrangement is physically completed (which, in the case of transition to another service arrangement provided by an entity other than BellSouth or one of its affiliates, shall be the time of disconnection), the applicable recurring rates set forth in the parties' interconnection agreement that immediately preceded the current Agreement or that were otherwise in effect at the time of the transition notice shall apply.

[BellSouth Version] In the event that <<customer_short_name>> has not entered into a separate agreement for the provision of Local Switching or services that include Local Switching, <<customer_short_name>> will submit orders to either disconnect Switching Eliminated Elements or convert such Switching Eliminated Elements to Resale within thirty (30) calendar days of the last day of the Transition Period. If <<customer_short_name>> submits orders to transition such Switching Eliminated Elements to Resale within thirty (30) calendar days of the last day of the Transition Period, applicable recurring and nonrecurring charges shall apply as set forth in the

appropriate BellSouth tariff, subject to the appropriate discounts described in Attachment 1 of this Agreement. If <<customer_short_name>> fails to submit orders within thirty (30) calendar days of the last day of the Transition Period, BellSouth shall transition such Switching Eliminated Elements to Resale, and <<customer_short_name>> shall pay the applicable nonrecurring and recurring charges as set forth in the appropriate BellSouth tariff, subject to the appropriate discounts described in Attachment 1 of this Agreement. In such case, <<customer_short_name>> shall reimburse BellSouth for labor incurred in identifying the lines that must be converted and processing such conversions. If no equivalent Resale service exists, then BellSouth may disconnect such Switching Eliminated Elements if <<customer_short_name>> does not submit such orders within thirty (30) calendar days of the last day of the Transition Period. In all cases, until Switching Eliminated Elements have been converted to Comparable Services or disconnected, the applicable recurring and nonrecurring rates for Switching Eliminated Elements during the Transition Period shall apply as set forth in this Agreement. Applicable nonrecurring disconnect charges may apply for disconnection of service or conversion to Comparable Services.

1 11.2 Other Eliminated Elements. Upon the end of the Transition Period, <<customer_short_name>> must transition the Eliminated Elements other than Switching Eliminated Elements ("Other Eliminated Elements") to Comparable Services. Unless the Parties agree otherwise, Other Eliminated Elements shall be handled in accordance with Sections 1.11.2.1 and 1.11.2.2 below.

1 11.2.1 <<customer_short_name>> will identify and submit orders to either disconnect Other Eliminated Elements or transition them to Comparable Services within thirty (30) calendar days of the last day of the Transition Period. Rates, terms and conditions for Comparable Services shall apply per the applicable tariff for such Comparable Services as of the date the order is completed. Where <<customer_short_name>> requests to transition a minimum of fifteen (15) circuits per state, <<customer_short_name>> may submit orders via a spreadsheet process and such orders will be project managed. In all other cases, <<customer_short_name>> must submit such orders pursuant to the local service request/access service request (LSR/ASR) process, dependent on the Comparable Service elected. For such transitions, the non-recurring and recurring charges shall be those set forth in BellSouth's FCC No. 1 tariff, or as otherwise agreed in a separately negotiated agreement. Until such time as the Other Eliminated Elements are transitioned to such Comparable Services, such Other Eliminated Elements will be provided pursuant to the rates, terms and conditions applicable to the subject Other Eliminated Elements during the Transition Period as set forth in this Agreement.

- 1.11.2.2 If <<customer_short_name>> fails to identify and submit orders for any Other Eliminated Elements within thirty (30) calendar days of the last day of the Transition Period, BellSouth may transition such Other Eliminated Elements to Comparable Services. The rates, terms and conditions for such Comparable Services shall apply as of the date following the end of the Transition Period. If no Comparable Services exist, then BellSouth may disconnect such Other Eliminated Elements if <<customer_short_name>> does not submit such orders within thirty (30) calendar days of the last day of the Transition Period. In such case <<customer_short_name>> shall reimburse BellSouth for labor incurred in identifying such Other Eliminated Elements and processing such orders and <<customer_short_name>> shall pay the applicable disconnect charges set forth in this Agreement. Until such time as the Other Eliminated Elements are disconnected pursuant to this Agreement, such Other Eliminated Elements will be provided pursuant to the rates, terms and conditions applicable to the subject Other Eliminated Elements during the Transition Period as set forth in this Agreement.
- 1.11.3 To the extent the FCC issues an effective Intervening Order that alters the rates, terms and conditions for any Network Element or Other Service, including but not limited to Local Switching, Enterprise Market Loops and High Capacity Transport, the Parties agree that such Intervening Order shall supersede those rates, terms and conditions set forth in this Agreement for the affected Network Element(s) or Other Service(s).
- 1.11.4 Notwithstanding anything to the contrary in this Agreement, in the event that the Interim Rules are vacated by a court of competent jurisdiction, <<customer_short_name>> shall immediately transition Local Switching, Enterprise Market Loops and High Capacity Transport pursuant to Section 1.11 through 1.11.2.2 above, applied from the effective date of such vacatur, without regard to the Interim Period or Transition Period.
- 1.11.5 Notwithstanding anything to the contrary in this Agreement, upon the Effective Date of the Final FCC Unbundling Rules, to the extent any rates, terms or requirements set forth in such Final FCC Unbundling Rules are in conflict with, in addition to or otherwise different from the rates, terms and requirements set forth in this Agreement, the Final FCC Unbundling Rules rates, terms and requirements shall supercede the rates, terms and requirements set forth in this Agreement without further modification of this Agreement by the Parties.
- 1.11.6 In the event that any Network Element, other than those already addressed above, is no longer required to be offered by BellSouth pursuant to Section 251 of the Act, <<customer_short_name>> shall immediately transition such elements pursuant to Section 1.11 through 1.11.2.2 above, applied from the effective date of the order eliminating such obligation.

Item No 26, Issue No 2-8 [Section 1 7] Should BellSouth be required to commingle UNEs or Combinations with any service, network element or other offering that it is obligated to make available pursuant to Section 271 of the Act?

1 7

[CLEC Version] Notwithstanding any other provision of this Agreement, BellSouth will not combine UNEs or Combinations with any service, Network Element or other offering that it is obligated to make available only pursuant to Section 271 of the Act.

[BellSouth Version] Notwithstanding any other provision of this Agreement, BellSouth will not **commingle or** combine UNEs or Combinations with any service, Network Element or other offering that it is obligated to make available only pursuant to Section 271 of the Act.

*Item No 36, Issue No 2-18 [Section 2 12 1] (A) How should line conditioning be defined in the Agreement?
(B) What should BellSouth's obligations be with respect to line conditioning?*

2.12.1

[CLEC Version] BellSouth shall perform line conditioning in accordance with FCC 47 C.F.R. 51.319 (a)(1)(iii). Line Conditioning is as defined in FCC 47 C.F.R. 51.319 (a)(1)(iii)(A). Insofar as it is technically feasible, BellSouth shall test and report troubles for all the features, functions, and capabilities of conditioned copper lines, and may not restrict its testing to voice transmission only.

[BellSouth Version] Line Conditioning is defined as routine network modification that BellSouth regularly undertakes to provide xDSL services to its own customers. This may include the removal of any device, from a copper Loop or copper sub-loop that may diminish the capability of the Loop or sub-loop to deliver high-speed switched wireline telecommunications capability, including xDSL service. Such devices include, but are not limited to; load coils, low pass filters, and range extenders. Insofar as it is technically feasible, BellSouth shall test and report troubles for all the features, functions, and capabilities of conditioned copper lines, and may not restrict its testing to voice transmission only

Item No 37, Issue No 2-19 [Section 2 12 2] Should the Agreement contain specific provisions limiting the availability of load coil removal to copper loops of 18,000 feet or less?

2 12 2

~~[CLEC Version]~~ No Section.

[BellSouth Version] **BellSouth will remove load coils only on copper loops and sub loops that are less than 18,000 feet in length. BellSouth will remove load coils on copper loops and sub loops that are greater than 18,000 feet in length upon <<customer_short_name>>'s request at rates pursuant to BellSouth's Special Construction Process contained in BellSouth's FCC No. 2 as mutually agreed to by the Parties.**

Item No 38, Issue No 2-20 [Sections 2 12 3, 2 12 4] Under what rates, terms and conditions should BellSouth be required to perform Line Conditioning to remove bridged taps?

2.12.3

~~[CLEC Version]~~ For any copper loop being ordered by <<customer_short_name>> which has over 6,000 feet of combined bridged tap will be modified, upon request from <<customer_short_name>>, so that the loop will have a maximum of 6,000 feet of bridged tap. This modification will be performed at no additional charge to <<customer_short_name>> Line conditioning orders that require the removal of **other** bridged tap will be performed at the rates set forth in Exhibit A of this Attachment.

[BellSouth Version] For any copper loop being ordered by <<customer_short_name>> which has over 6,000 feet of combined bridged tap will be modified, upon request from <<customer_short_name>>, so that the loop will have a maximum of 6,000 feet of bridged tap. This modification will be performed at no additional charge to <<customer_short_name>>. Line conditioning orders that require the removal of bridged tap **that serves no network design purpose on a copper loop that will result in a combined level of bridged tap between 2,500 and 6,000 feet** will be performed at the rates set forth in Exhibit A of this Attachment.

2.12.4

~~[CLEC Version]~~ No Section.

[BellSouth Version] <<customer_short_name>> **may request removal of any unnecessary and non-excessive bridged tap (bridged tap between 0 and 2,500 feet which serves no network design purpose), at rates pursuant to BellSouth's Special Construction Process contained in BellSouth's FCC No. 2 as mutually agreed to by the Parties. Rates for ULM are as set forth in Exhibit A of this Attachment.**

Item No 43, Issue No 2-25 [Section 2 18 1 4] Under what circumstances should BellSouth be required to provide

CLEC with Loop Makeup information on a facility used or controlled by a carrier other than BellSouth?

2.18.1 4 [CLEC Version] No Section.

[BellSouth Version] BellSouth's provisioning of LMU information to the requesting CLEC for facilities is contingent upon either BellSouth or the requesting CLEC controlling the Loop(s) that serve the service location for which LMU information has been requested by the CLEC. The requesting CLEC is not authorized to receive LMU information on a facility used or controlled by another CLEC unless BellSouth receives a Letter of Authorization (LOA) from the voice CLEC (owner) or its authorized agent on the LMUSI submitted by the requesting CLEC.

Item No 50, Issue No. 2-32 [Sections 5 2 5 2 1, 5 2 5 2 3, 5 2 5 2 4, 5 2 5 2 5 and 5 2 5 2 7] How should the term "customer" as used in the FCC's EEL eligibility criteria rule be defined?

5.2 5.2.1 [CLEC Version] 1) Each circuit to be provided to each **customer** will be assigned a local number prior to the provision of service over that circuit,

[BellSouth Version] 1) Each circuit to be provided to each **End User** will be assigned a local number prior to the provision of service over that circuit;

5 2 5 2.3 [CLEC Version] 3) Each circuit to be provided to each **customer** will have 911 or E911 capability prior to provision of service over that circuit;

[BellSouth Version 3) Each circuit to be provided to each **End User** will have 911 or E911 capability prior to provision of service over that circuit;

5.2 5.2.4 [CLEC Version] 4) Each circuit to be provided to each **customer** will terminate in a collocation arrangement that meets the requirements of FCC 47 C.F.R. 51.318(c);

[BellSouth Version 4) Each circuit to be provided to each **End User** will terminate in a collocation arrangement that meets the requirements of FCC 47 C.F.R. 51.318(c),

5.2.5.2.5 [CLEC Version] 5) Each circuit to be provided to each **customer** will be served by an interconnection trunk in the same LATA as the customer premises served by the EEL over which <<customer_short_name>> will transmit the calling party's number in connection with calls exchanged over the trunk;

[BellSouth Version 5) Each circuit to be provided to each **End User** will be served by an interconnection trunk in the same LATA as the customer premises served by the EEL over which <<customer_short_name>> will transmit the calling party's number in connection with calls exchanged over the trunk,

5.2.5 2.7 ~~[CLEC Version]~~ 7) Each circuit to be provided to each **customer** will be served by a switch capable of switching local voice traffic.

[BellSouth Version] 7) Each circuit to be provided to each **End User** will be served by a switch capable of switching local voice traffic.

*Item No 51, Issue No 2-33 [Sections 5 2 6, 5 2 6 1, 5 2 6 2, 5 2 6 2 1, 5 2 6 2 3] (A) **This issue has been resolved.***

(B) Should there be a notice requirement for BellSouth to conduct an audit and what should the notice include?

(C) Who should conduct the audit and how should the audit be performed?

5 2.6.1 ~~[CLEC Version]~~ To invoke its limited right to audit, BellSouth will send a Notice of Audit to <<customer_short_name>> identifying the **particular circuits for which BellSouth alleges non-compliance and the cause upon which BellSouth rests its allegations. The Notice of Audit shall also include all supporting documentation upon which BellSouth establishes the cause that forms the basis of BellSouth's allegations of noncompliance.** Such Notice of Audit will be delivered to <<customer_short_name>> **with all supporting documentation** no less than thirty (30) calendar days prior to the date upon which BellSouth seeks to commence an audit.

[BellSouth Version] To invoke its limited right to audit, BellSouth will send a Notice of Audit to <<customer_short_name>> identifying the cause upon which BellSouth rests its allegations. Such Notice of Audit will be delivered to <<customer_short_name>> no less than thirty (30) calendar days prior to the date upon which BellSouth seeks to commence an audit.

5 2 6.2 ~~[<<customer_short_name>> Version]~~ The audit shall be conducted by a third party independent auditor **mutually agreed-upon by the Parties** and retained and paid for by BellSouth. The audit shall commence at a mutually agreeable location (or locations).

[BellSouth Version] The audit shall be conducted by a third party independent auditor retained and paid for by BellSouth. The audit shall commence at a mutually agreeable location (or locations).

ATTACHMENT 3

INTERCONNECTION

Item No 63, Issue No 3-4 [Section 10 10 6 (KMC), 10 8 6 (NSC), 10 8 6 (NVX), 10 13 5 (XSP)] Under what terms should CLEC be obligated to reimburse BellSouth for amounts BellSouth pays to third party carriers that terminate BellSouth transited/CLEC originated traffic?

10.8 6

~~[CLEC Version]~~ BellSouth agrees to deliver Transit Traffic originated by <<customer_short_name>> to the terminating carrier; provided, however, that <<customer_short_name>> is solely responsible for negotiating and executing any appropriate contractual agreements with the terminating carrier for the exchange of Transit Traffic through the BellSouth network. BellSouth will not be liable for any compensation to the terminating carrier or to <<customer_short_name>> for transiting <<customer_short_name>>-originated or terminated Transit Traffic. **Notwithstanding any other provision of this Attachment**, in the event that the terminating third party carrier imposes on BellSouth any charges or costs for the delivery of Transit Traffic originated by <<customer_short_name>>, <<customer_short_name>> shall reimburse BellSouth for all charges paid by BellSouth, **which BellSouth is obligated to pay pursuant to contract or Commission order**, provided that BellSouth notifies and, upon request, provides <<customer_short_name>> with a copy of such an invoice, if available, or other equivalent supporting documentation (if an invoice is not available), and proof of payment and other applicable supporting documentation. BellSouth will provide such notice and information in a timely, reasonable and nondiscriminatory manner. BellSouth shall diligently review, dispute and pay such third party invoices (or equivalent) in a manner that is at parity with its own practices for reviewing, disputing and paying such invoices (or equivalent) **when no similar reimbursement provision applies**. **Notwithstanding the foregoing, <<customer_short_name>> will not be obligated to reimburse BellSouth for any charges or costs related to Transit Traffic for which BellSouth has assumed responsibility through a settlement agreement with a third party.** Additionally, the Parties agree that any billing to a third party or other telecommunications carrier under this section shall be pursuant to MECAB procedures.

[BellSouth Version] BellSouth agrees to deliver Transit Traffic originated by <<customer_short_name>> to the terminating carrier; provided, however, that <<customer_short_name>> is solely responsible for negotiating and executing any appropriate contractual agreements with the terminating carrier for the exchange of Transit Traffic through the BellSouth network. BellSouth will not be liable for any compensation to the terminating carrier or to <<customer_short_name>> for transiting <<customer_short_name>>-originated

or terminated Transit Traffic. In the event that the terminating third party carrier imposes on BellSouth any charges or costs for the delivery of Transit Traffic originated by <<customer_short_name>>, <<customer_short_name>> shall reimburse BellSouth for all charges paid by BellSouth, provided that BellSouth notifies <<customer_short_name>> and, upon request, provides <<customer_short_name>> with a copy of such an invoice, if available, or other equivalent supporting documentation (if an invoice is not available), and proof of payment and other applicable supporting documentation. BellSouth will **use commercially reasonable efforts** to provide such notice and information in a timely, reasonable and nondiscriminatory manner. BellSouth shall diligently review, dispute and pay such third party invoices (or equivalent) in a manner that is at parity with its own practices for reviewing, disputing and paying such invoices (or equivalent) **under the same circumstances. Once <<customer_short_name>> reimburses BellSouth for any such payments, any disputes with respect to such charges shall be between <<customer_short_name>> and the terminating third party carrier.** Additionally, the Parties agree that any billing to a third party or other telecommunications carrier under this section shall be pursuant to MECAB procedures.

Item No 65, Issue No 3-6 [Section 10 10 1 (KMC), 10 8 1 (NSC/NVX), 10 13 (XSP)] Should BellSouth be allowed to charge the CLEC a Transit Intermediary Charge for the transport and termination of Local Transit Traffic and ISP-Bound Transit Traffic?

10.10 1 ~~[CLEC Version]~~ Each Party shall provide tandem switching and transport services for the other Party's Transit Traffic. Rates for Local Transit Traffic and ISP-Bound Transit Traffic shall be the applicable Call Transport and Termination charges (i.e., common transport and tandem switching charge; end office switching charge is not applicable) as set forth in Exhibit A to this Attachment. Rates for Switched Access Transit Traffic shall be the applicable charges as set forth in the applicable Party's Commission approved Interstate or Intrastate Switched Access tariffs as filed and effective with the FCC or Commission, or reasonable and non-discriminatory web-posted listing if the FCC or Commission does not require filing of a tariff. Billing associated with all Transit Traffic shall be pursuant to MECAB guidelines.

[BellSouth's Version] Each Party shall provide tandem switching and transport services for the other Party's Transit Traffic. Rates for Local Transit Traffic and ISP-Bound Transit Traffic shall be the applicable Call Transport and Termination charges (i e , common transport and tandem switching charges and **tandem intermediary charge**, end office switching charge is not applicable) as set forth in Exhibit A to this Attachment. Rates for Switched Access Transit Traffic shall be the applicable charges as set forth in the applicable Party's Commission

approved Interstate or Intrastate Switched Access tariffs as filed and effective with the FCC or Commission, or reasonable and non-discriminatory web-posted listing if the FCC or Commission does not require filing of a tariff. Billing associated with all Transit Traffic shall be pursuant to MECAB guidelines

ATTACHMENT 6

ORDERING

*Item No 86, Issue No 6-3 [Sections 2 5 6 2, 2 5 6 3] (A)
This issue has been resolved (B) How should disputes over
alleged unauthorized access to CSR information be handled
under the Agreement?*

2 5 6 3

[CLEC Version] Disputes over Alleged Noncompliance. If one Party disputes the other Party's assertion of non-compliance, that Party shall notify the other Party in writing of the basis for its assertion of compliance. If the receiving Party fails to provide the other Party with notice that appropriate corrective measures have been taken within a reasonable time or provide the other Party with proof sufficient to persuade the other Party that it erred in asserting that the non-compliance, the requesting Party shall proceed pursuant to the dispute resolution provisions set forth in the General Terms and Conditions. In such instance, the Parties cooperatively shall seek expedited resolution of the dispute. All such information obtained through the process set forth in this Section 2.5.5 shall be deemed Information covered by the Proprietary and Confidential Information Section in the General Terms and Conditions of this Agreement.

[BellSouth Version] Disputes over Alleged Noncompliance. In it's written notice to the other Party the alleging Party will state that additional applications for service may be refused, that any pending orders for service may not be completed, and/or that access to ordering systems may be suspended if such use is not corrected or ceased by the fifth (5th) calendar day following the date of the notice. In addition, the alleging Party may, at the same time, provide written notice to the person designated by the other Party to receive notices of noncompliance that the alleging Party may terminate the provision of access to ordering systems to the other Party and may discontinue the provisioning of existing services if such use is not corrected or ceased by the tenth (10th) calendar day following the date of the initial notice. If the other Party disagrees with the alleging Party's allegations of unauthorized use, the other Party shall proceed pursuant to the dispute resolution provisions set forth in the General Terms and Conditions. All such information obtained through the process set forth in this Section 2.5.5 shall be deemed Information covered by the Proprietary and Confidential Information Section in the General Terms and Conditions of this Agreement.

Item No 88, Issue No 6-5 [Section 2 6 5] What rate should apply for Service Date Advancement (a/k/a service expedites)?

2 6 5

~~PARTIES DISAGREE ON THE RATE, NOT THE LANGUAGE~~ Service Date Advancement Charges (a.k.a. Expedites). For Service Date Advancement requests by <<customer_short_name>>, Service Date Advancement charges will apply for intervals less than the standard interval as outlined in Section 8 of the LOH, located at <http://interconnection.bellsouth.com/guides/html/leo.html>. The charges shall be as set-forth in Exhibit A of Attachment 2 of this Agreement and will apply only where Service Date Advancement has been specifically requested by the requesting Party, and the element or service provided by the other Party meets all technical specifications and is provisioned to meet those technical specifications. If <<customer_short_name>> accepts service on the plant test date (PTD) normal recurring charges will apply from that date but Service Date Advancement charges will only apply if <<customer_short_name>> previously requested the order to be expedited and the expedited DD is the same as the original PTD.

*Item No 94, Issue No 6-11 [Sections 3 1 2, 3 1 2 1] (A)
Should the mass migration of customer service arrangements resulting from mergers, acquisitions and asset transfers be accomplished by the submission of an electronic LSR or spreadsheet?*

(B) If so, what rates should apply?

(C) What should be the interval for such mass migrations of services?

3 1.2

~~CLEC Version~~ Mass Migration of Customers. BellSouth will cooperate with <<customer_short_name>> to accomplish mass migration of customers expeditiously and on terms that are reasonable and non-discriminatory. **Mass migration of customer service arrangements (e.g., UNEs, Combinations, resale) will be accomplished pursuant to submission of electronic LSR or, if mutually agreed to by the Parties, by submission of a spreadsheet in a mutually agreed-upon format. Until such time as an electronic LSR process is available, a spreadsheet containing all relevant information shall be used. An electronic OSS charge shall be assessed per service arrangement migrated. This Section shall not govern bulk migration from one service arrangement to another for the same carrier or migration of a collocation space from one carrier to another.**

[BellSouth Version] Mass Migration of Customers. BellSouth will cooperate with <<customer_short_name>> to accomplish mass migration of customers expeditiously and on terms that are reasonable and non-discriminatory

3 1 2.1

[CLEC Version] BellSouth shall only charge <<customer_short_name>> a TELRIC-based records change charge for the migration of customers for which no physical re-termination of circuits must be performed. The TELRIC-based records change charge is as set forth in Exhibit A of Attachment 2 of this Agreement. Such migrations shall be completed within ten (10) calendar days of an LSR or spreadsheet submission. The TELRIC-based charge for physical re-termination of circuits (including appropriate record changes (a single charge will apply)) is as set forth in Exhibit A of Attachment 2 of this Agreement. Such physical re-terminations shall be completed within ten (10) calendar days of electronic LSR or spreadsheet submission.

[BellSouth Version] No Section.

ATTACHMENT 7

BILLING

Item No 95, Issue No 7-1 [Section 1 1 3] What time limits should apply to backbilling, over-billing, and under-billing issues?

1 1 3

[CLEC Version] The Bill Date, as defined herein, must be present on each bill transmitted by one Party to the other Party and must be a valid calendar date. **Bills should not be rendered for any charges which are incurred under this agreement when more than ninety (90) days have passed since the bill date on which those charges ordinarily would have been billed. Billed amounts for services rendered more than one (1) billing period prior to the Bill Date shall be invalid unless the billing Party identifies such billing as "back-billing" on a line-item basis. However, both Parties recognize that situations exist which would necessitate billing beyond ninety (90) days and up to a limit of six (6) months after the date upon which the bill ordinarily would have been issued. These exceptions are:**

Charges connected with jointly provided services whereby meet point billing guidelines require either party to rely on records provided by a third party and such records have not been provided in a timely manner;

Charges incorrectly billed due to erroneous information supplied by the non-billing Party.

[BellSouth Version] The Bill Date, as defined herein, must be present on each bill transmitted by one Party to the other Party and must be a valid calendar date.

Charges incurred under this Agreement are subject to applicable Commission rules and state statutes of limitations.

Item No 96, Issue No. 7-2 [Section 1 2 2] (A) What charges, if any, should be imposed for records changes made by the Parties to reflect changes in corporate names or other LEC identifiers such as OCN, CC, CIC and ACNA? (B) What intervals should apply to such changes?

1 2.2

[LEC Version] OCN, CC, CIC, ACNA and BAN Changes. In the event that either Party makes any corporate name change (including addition or deletion of a d/b/a), or a change in OCN, CC, CIC, ACNA or any other LEC identifier (collectively, a “LEC Change”), the changing Party shall submit written notice to the other Party requesting that it update its databases, systems, and records to reflect such LEC Change. The charge for performing such database, system and records updates shall be at the cost-based, TELRIC compliant rate set forth in Exhibit A to this Attachment 7. LEC Changes shall be accomplished in thirty (30) calendar days and shall result in no delay or suspension of ordering or provisioning of any element or service provided pursuant to this Agreement, or access to any pre-order, order or maintenance interfaces made available by BellSouth pursuant to Attachment 6 of this Agreement. At the request of a Party, the other Party shall process and implement all system and record changes necessary to effectuate a new OCN/CC within thirty (30) calendar days. At the request of a Party, the other Party shall establish a new BAN within ten (10) calendar days.

[BellSouth Version] OCN, CC, CIC, ACNA and BAN Changes. If <<customer_short_name>> needs to change its ACNA(s)/BAN(s)/CC(s)/CIC(s)/OCN(s) under which it operates when <<customer_short_name>> has already been conducting business utilizing that ACNA(s)/BAN(s)/CC(s)/CIC(s)/OCN(s), <<customer_short_name>> shall bear all costs incurred by BellSouth to convert <<customer_short_name>> to the new ACNA(s)/BAN(s)/CC(s)/CIC(s)/OCN(s). ACNA/BAN/CC/CIC/OCN conversion charges include the time required to make system updates to all of <<customer_short_name>>’s End User customer records and will be handled by the BFR/NBR process.

Item No 97, Issue No 7-3 [Section 1 4] When should payment of charges for service be due?

1 4

[CLEC Version] Payment Due Payment of **charges** for services rendered will be due **thirty (30) calendar days from receipt or website posting of a complete and fully readable bill or within thirty (30) calendar days from receipt or website posting of a corrected or retransmitted bill in those cases where correction or retransmission is necessary for processing** and is payable in immediately available funds Payment is considered to have been made when received by the billing Party.

[BellSouth Version] Payment Due. Payment for services will be due **on or before the next bill date (Payment Due Date)** and is payable in immediately available funds Payment is considered to have been made when received by the billing Party.

Item No 99, Issue No 7-5 [Section 1 7.1] What recourse should a Party have if it believes the other Party is engaging in prohibited, unlawful or improper use of its facilities or services, abuse of the facilities or noncompliance with the Agreement or applicable tariffs?

1.7.1

[CLEC Version] Each Party reserves the right to suspend or terminate service in the event of prohibited, unlawful or, in the case of resold services, improper use of the other Party's facilities or service (e.g. making calls in a manner reasonably to be expected to frighten, abuse, torment or harass another, etc.) as described under the providing Party's tariff, abuse of the other Party's facilities, or any other violation or noncompliance with this Agreement and/or each Party's tariffs where applicable. Upon detection of such use, the detecting Party will provide written notice to the other Party that additional applications for **such** service may be refused, that any pending orders for **such** service may not be completed, and/or that access to ordering systems for **such service** may be suspended if such use is not corrected or ceased by the fifteenth (15th) calendar day following the date of the notice. In addition, the detecting Party may, at the same time, provide written notice to the person designated by the other Party to receive notices of noncompliance that the detecting Party may terminate the provision of **such** existing services to the other Party if such use is not corrected or ceased by the thirtieth (30th) calendar day following the date of the initial notice. **Notwithstanding the foregoing, if the Party that receives the notice disagrees with the issuing Party's allegations of prohibited, unlawful or improper use, it shall provide written notice to the issuing Party stating the reasons therefor. Upon delivery of such notice of dispute, the foregoing provisions regarding suspension and termination will be stayed, and the Parties shall work in good faith to resolve any dispute over allegations of prohibited,**

unlawful or improper use. If the Parties are unable to resolve such dispute amicably, the issuing Party shall proceed, if at all, pursuant to the dispute resolution provisions set forth in the General Terms and Conditions.

[BellSouth Version] Each Party reserves the right to suspend or terminate service in the event of prohibited, unlawful or, in the case of resold services, improper use of the other Party's facilities or service (e.g. making calls in a manner reasonably to be expected to frighten, abuse, torment or harass another, etc.) as described under the providing Party's tariff, abuse of the other Party's facilities, or any other violation or noncompliance with this Agreement and/or each Party's tariffs where applicable. Upon detection of such use, the detecting Party will provide written notice to the other Party that additional applications for service may be refused, that any pending orders for service may not be completed, and/or that access to ordering systems may be suspended if such use is not corrected or ceased by the fifteenth (15th) calendar day following the date of the notice. In addition, the detecting Party may, at the same time, provide written notice to the person designated by the other Party to receive notices of noncompliance that the detecting Party may terminate the provision of **all** existing services to the other Party if such use is not corrected or ceased by the thirtieth (30th) calendar day following the date of the initial notice.

Item No. 100, Issue No. 7-6 [Section 1 7 2] Should CLEC be required to calculate and pay past due amounts in addition to those specified in BellSouth's notice of suspension or termination for nonpayment in order to avoid suspension or termination?

1 7 2

[CLEC Version] Each Party reserves the right to suspend or terminate service for nonpayment. If payment of amounts not subject to a billing dispute, as described in Section 2, is not received by the **Due Date**, the **billing Party** may provide written notice **to the other Party** that additional applications for service may be refused, that any pending orders for service may not be completed, and/or that access to ordering systems may be suspended if payment of such amounts, **as indicated on the notice in dollars and cents**, is not received by the fifteenth (15th) calendar day following the date of the notice. In addition, the **billing Party** may, at the same time, provide written notice that the **billing Party** may discontinue the provision of existing services to **the other Party** if payment of such amounts, **as indicated on the notice (in dollars and cents)**, is not received by the thirtieth (30th) calendar day following the date of the Initial Notice.

[BellSouth Version] **BellSouth** reserves the right to suspend or terminate service for nonpayment. If payment of amounts not subject to a billing dispute, as described in Section 2, is not received by the **bill date in the month after the original bill date**, **BellSouth** will provide written notice to **<<customer_short_name>>** that additional applications for service may be

refused, that any pending orders for service may not be completed, and/or that access to ordering systems may be suspended if payment of such amounts, **and all other amounts not in dispute that become past due before refusal, incompleteness or suspension**, is not received by the fifteenth (15th) calendar day following the date of the notice. In addition, **BellSouth** may, at the same time, provide written notice **to the person designated by <<customer_short_name>> to receive notices of noncompliance** that **BellSouth** may discontinue the provision of existing services to <<customer_short_name>> if payment of such amounts, **and all other amounts not in dispute that become past due before discontinuance**, is not received by the thirtieth (30th) calendar day following the date of the initial notice

Item No 101, Issue No 7-7 [Section 1 8 3] How many months of billing should be used to determine the maximum amount of the deposit?

1 8 3

[CLEC Version] The amount of the security shall not exceed two month's estimated billing for new CLECs or one and one-half month's actual billing under this Agreement for existing CLECs (based on average monthly billings for the most recent six (6) month period). Interest shall accrue per the appropriate BellSouth tariff on cash deposits.

[BellSouth Version] The amount of the security shall not exceed two (2) month's **estimated billing for new CLECs or** actual billing for existing CLECs. Interest shall accrue per the appropriate BellSouth tariff on cash deposits.

Item No 102, Issue No 7-8 [Section 1 8 3 1] Should the amount of the deposit BellSouth requires from CLEC be reduced by past due amounts owed by BellSouth to CLEC?

1.8.3.1

[CLEC Version] The amount of security due from an existing CLEC shall be reduced by amounts due <<customer_short_name>> by BellSouth aged over thirty (30) calendar days. BellSouth may request additional security in an amount equal to such reduction once BellSouth demonstrates a good payment history, as defined in Section 1.8.5.1, and subject to the standard set forth in Section 1.8.5.

[BellSouth Version] **No Section.**

Item No 103, Issue No 7-9 [Section 1 8 6] Should BellSouth be entitled to terminate service to CLEC pursuant to the process for termination due to non-payment if CLEC refuses to remit any deposit required by BellSouth within 30 calendar days?

1.8 6

[CLEC Version] Subject to Section 1.8.7 following, in the event <<customer_short_name>> fails to remit to BellSouth any deposit requested pursuant to this Section **and either agreed to by <<customer_short_name>> or as ordered by the Commission** within thirty (30) calendar days **of such agreement or order**, service to <<customer_short_name>> may be terminated in accordance with the terms of Section 1.7 and subtending sections of this Attachment, and any security deposits will be applied to <<customer_short_name>>'s account(s).

[BellSouth Version] Subject to Section 1.8.7 following, in the event <<customer_short_name>> fails to remit to BellSouth any deposit requested pursuant to this Section within thirty (30) calendar days **of <<customer_short_name>>'s receipt of such request**, service to <<customer_short_name>> may be terminated in accordance with the terms of Section 1 7 and subtending sections of this Attachment, and any security deposits will be applied to <<customer_short_name>>'s account(s)

Item No 104, Issue No 7-10 [Section 1 8 7] What recourse should be available to either Party when the Parties are unable to agree on the need for or amount of a reasonable deposit?

1 8 7

[CLEC Version] The Parties will work together to determine the need for or amount of a reasonable deposit. **If the Parties are unable to agree, either Party** may file a petition for resolution of the dispute and both parties shall cooperatively seek expedited resolution of such dispute

[BellSouth Version]. The Parties will work together to determine the need for or amount of a reasonable deposit. **If <<customer_short_name>> does not agree with the amount or need for a deposit requested by BellSouth, <<customer_short_name>> may file a petition with the Commissions for resolution of the dispute and both Parties shall cooperatively seek expedited resolution of such dispute. BellSouth shall not terminate service during the pendency of such a proceeding provided that <<customer_short_name>> posts a payment bond for the amount of the requested deposit during the pendency of the proceeding.**

KMC / NUVOX / NEWSOUTH / XSPEDIUS - BELLSOUTH ARBITRATION¹

JOINT PETITIONERS' TENNESSEE PRE-FILED TESTIMONY ERRATA SHEET January 24, 2005

Joint Petitioners' (Supplemental) Direct Testimony filed October 29, 2004

PAGE:LINE	ERRATA/REFERENCE	REVISION
Cover page	Robert Collins on behalf of KMC Telecom V, Inc. & KMC Telecom III LLC	Delete
Cover page	John Fury on behalf of NNUVox Communications, Inc. and NewSouth Communications Corp.	Delete
2:3-4:3	Robert Collins biographical information	Delete
6:chart	Attachment 2: Unbundled Network Elements	Add: 37/2-19, 38/2-20, 43/2-25
6:chart	Attachment 3: Interconnection	Delete 63/3-4
6:chart	Attachment 6: Ordering	Delete "None" Add: 86/6-3(B), 88/6-5, 94/6-11
6:chart	Attachment 7: Billing	Delete 106/7-12
6:n.2	Four additional issued settled since fili2	Add: 27/2-9, 46/2-28, 57/2-39 and 106/7-12 to list of settled issues
6:n.2	KMC settled an issue separately from other Joint Petitioners	Add. "63/3-4 (KMC only)"
9:chart	Attachment 2: Unbundled Network Elements	Add: 37/2-19, 38/2-20, 43/2-25
9:chart	Attachment 3: Interconnection	Delete 63/3-4
9:chart	Attachment 6: Ordering	Delete "None" Add: 86/6-3(B), 88/6-5, 94/6-11
9:chart	Attachment 7: Billing	Delete 106/7-12
9.n.3	Four additional issues settled since filing	Add: 27/2-9, 46/2-28, 57/2-39 and 106/7-12 to list of settled issues
9.n.3	KMC settled an issue separately from other	Add: "63/3-4 (KMC only)"

¹ KMC, NewSouth, NuVox and Xspedius are jointly arbitrating all issues raised in this arbitration proceeding

PAGE:LINE	ERRATA/REFERENCE	REVISION
	Joint Petitioners	
9:7 – 11:6	John Fury biographical information	Delete
13:chart	Attachment 2: Unbundled Network Elements	Delete 23/2-5
13:chart	Attachment 7: Billing	Delete 106/7-12
13:n.5	Four additional issues settled since filing	Add: 27/2-9, 46/2-28, 57/2-39 and 106/7-12 to list of settled issues
13:10	“Senior Director - Network Development”	Replace with “Executive Director – Network Cost and Budgeting”
13:11	“September 2003”	Replace with “July 31, 2003”
13:11	“Since September 2003”	Replace with “Since August 1, 2003”
14:21	“1970 until 1986”	Replace with “From 1970 until 1986”
15:chart	Attachment 2: Unbundled Network Elements	Add: 37/2-19, 38/2-20
15:chart	Attachment 2: Unbundled Network Elements	Delete 57/2-39
15:chart	Attachment 3. Interconnection / None	Replace “None” with “65/3-6”
15:n.6	Four additional issues settled since filing	Add: 27/2-9, 46/2-28, 57/2-39 and 106/7-12 to list of settled issues
17: n.7	Four additional issues settled since filing	Add: 27/2-9, 46/2-28, 57/2-39 and 106/7-12 to list of settled issues
17:chart	Attachment 2: Unbundled Network Elements	Delete 57/2-39
17:chart	Attachment 7/Billing	Delete 106/7-12
41:22	“term s”	Replace with “terms”
45:21	“H. Russell”	Replace with “J. Willis”
48:10	“H. Russell”	Replace with “J. Willis”
50:11	“H. Russell”	Replace with “J. Willis”
54:7-54:10	“On a commingled circuit . . . unnecessary disputes ”	Delete
58:7	“J Fury”	Replace with “J. Willis”
58 20	“J. Fury”	Replace with “J. Willis”

PAGE:LINE	ERRATA/REFERENCE	REVISION
59:20	"J. Fury"	Replace with "J. Willis"
60:5	"G.HDSL"	Replace with "G.SHDSL"
60:6	"J. Fury"	Replace with "J. Willis"
60:13	"J. Fury"	Replace with "J. Willis"
61:5	"J. Fury"	Replace with "J. Willis"
62:10	"J. Fury"	Replace with "J. Willis"
73:3 – 73:4	"The provisions regarding . . . in the TRO."	Delete
73:8	"two specific"	Delete
73:9	"First, the"	Replace with "The
73:16 – 74:1	"Second, the reimbursement . . . in the TRO."	Delete
78:16	"M. Johnson (KMC)"	Delete
78:16	" <i>H Russell (NVX), J Falvey (XSP)</i> "	Bold " <i>J. Falvey (XSP)</i> "
80:1	"M. Johnson (KMC)"	Delete
80:6	"BellSouth is"	Add "already" after "BellSouth"
80:12	"M. Johnson (KMC)"	Delete
80:17	"M. Johnson (KMC)"	Delete
81:1 (text box for issue 65)	"Tandem"	Delete "Tandem" and replace with "Transit"
81:4	"Tandem"	Delete "Tandem" and replace with "Transit"
81:10	"KMC and NewSouth's reasoning..."	Replace "KMC and NewSouth's" with "Joint Petitioners".
87:9	"As explained above in Issue 2-17, all aspects of UNE ordering must"	Replace with: " <u>All aspects of UNE ordering and provisioning must</u> "
90:1	"...bulk porting situations, they are..."	Replace "porting situations" with "record changes".
107:11	"...or denial of such accusations."	Add sentence after "...accusations." which reads: "In the event of such a dispute, 'self help' should not supplant the Dispute Resolution process set forth in the agreement."
109:14	"...in order to avoid suspension or termination."	After "...termination." add sentence: "Otherwise, CLEC will risk suspension or

PAGE:LINE	ERRATA/REFERENCE	REVISION
		termination due to possible calculation and timing errors.”
112:14	“...most recent six (6) month period).”	Add sentence following which reads: “The one and one-half month’s actual billing deposit limit for existing CLECs is reasonable given that balances can be predicated with reasonable accuracy and that significant portions of services are billed in advance.”
115:7	“...Attachment 7 of the Agreement.”	Add sentence following which reads: “This provision is appropriate given that the Agreement’s deposit provisions are not reciprocal and that BellSouth’s payment history with CLECs is often poor.”
117:1	“...the Authority has ordered payment of such deposit.”	Add sentence following which reads: “A dispute over a requested deposit should be addressed via the Agreement’s Dispute Resolution provisions and not through ‘self help’”.
149:16	“ISSUE S-5.”	Replace with “ISSUE S-5(A).”

Joint Petitioners’ Rebuttal Testimony filed November 19, 2004

PAGE:LINE	ERRATA/REFERENCE	REVISION
Cover page	“John Fury on behalf of NuVox Communications, Inc. and NewSouth Communications Corp.”	Delete
2-3:n.1	Four additional issues settled since filing	Add: 27/2-9, 46/2-28, 57/2-39 and 106/7-12 to list of settled issues
2-3:n.1	KMC settled an issue separately from other Joint Petitioners	Add: “63/3-4 (KMC only)”
3:chart	Attachment 2: Unbundled Network Elements	Delete 57/2-39
3 chart	Attachment 3: Interconnection	Delete 63/3-4
3.chart	Attachment 7: Billing	Delete 106/7-12
4:n.2	Four additional issues settled since filing	Add: 27/2-9, 46/2-28, 57/2-39 and

PAGE:LINE	ERRATA/REFERENCE	REVISION
		106/7-12 to list of settled issues
4.n.2	KMC settled an issue separately from other Joint Petitioners	Add: “63/3-4 (KMC only)”
5:chart	Attachment 2: Unbundled Network Elements	Delete 57/2-39
5:chart	Attachment 3: Interconnection	Delete 63/3-4
5:chart	Attachment 7: Billing	Delete 106/7-12
5:6 – 7:4	John Fury biographical information and introduction	Delete
7:n.4	Four additional issues settled since filing	Add: 27/2-9, 46/2-28, 57/2-39 and 106/7-12 to list of settled issues
8:chart	Attachment 7: Billing	Delete 106/7-12
8:8	“Senior Director – Network Development”	Replace with: “Executive Director – Network Cost and Budgeting”
8:9	“September 2003”	Replace with: “July 31, 2003”
8 9	“Since September 2003”	Replace with: “Since August 1, 2003”
9:n.5	Four additional issues settled since filing	Add: 27/2-9, 46/2-28, 57/2-39 and 106/7-12 to list of settled issues
9:chart	Attachment 2: Unbundled Network Elements	Add: “37/2-19, 38/2-20”
9 chart	Reference to 57/2-39	Delete
9:chart	Attachment 3: Interconnection / None	Replace “None” with “65/3-6”
10-11:n.6	Four additional issues settled since filing	Add: 27/2-9, 46/2-28, 57/2-39 and 106/7-12 to list of settled issues
11:chart	Attachment 2: Unbundled Network Elements	Delete 57/2-39
11 chart	Attachment 7 Billing	Delete 106:7-12
65:7	“and demonstrating the cause”	Replace with “and <u>demonstrate</u> the cause
71:11	“ <i>M Johnson (KMC)</i> ”	Delete
71:11	“ <i>H Russell (NVX), J Falvey (XSP)</i> ”	Bold “ <i>J. Falvey (XSP)</i> ”

PAGE:LINE	ERRATA/REFERENCE	REVISION
71:21	"M Johnson (KMC)"	Delete
72:11	"M Johnson (KMC)"	Delete
72:20	"M Johnson (KMC)"	Delete
73:3	"M Johnson (KMC)"	Delete
73:5 (text box for Item No. 65)	"Tandem"	Replace with "Transit"
73:8	"CLEC"	"CLECs"
73:8	"Tandem"	Replace with "Transit"
89:8	("LEC Change")	("LEC Changes")
89:8-10	"...in the other Party's databases....12 month period without charge. For any additional...should be assessed."	After parenthetical, strike remainder of paragraph and replace with: "should be TELRIC-compliant."
125:3	"WILL POSSIBLE RESULT"	Replace with "WILL <u>POSSIBLY</u> RESULT"
140:11	"Blake testimony at"	Replace with "Blake at"
141:7	"land"	Replace with "and"

Last updated: 1/24/05